

Exhibit “C”

Deposition of Trenton McCluskey

<p>1 IN THE UNITED STATES DISTRICT COURT 2 NORTHERN DISTRICT OF ALABAMA 3 JASPER DIVISION 4 5 GEORGE R. CHAPMAN, JR., 6 Plaintiff, 7 VS. CIVIL ACTION 8 NO. 6:09-cv-1748-SLB 9 10 WALKER COUNTY, ALABAMA, a 11 Governmental Entity; and SHERIFF 12 JOHN MARK TIREY and TRENTON 13 McCLUSKEY, Individuals, 14 Defendants. 15 16 DEPOSITION OF TRENTON McCLUSKEY 17 18 STIPULATIONS 19 IT IS STIPULATED AND AGREED, by and 20 between the parties, through their respective 21 counsel, that the deposition of TRENTON 22 McCLUSKEY may be taken before Scott Wilmeth, 23 CCR, RPR, State of Alabama at Large, at 2001 2nd Avenue, Jasper, Alabama, on May 11, 2011, commencing at 4:03 p.m. IT IS FURTHER STIPULATED AND AGREED that the reading and signature to the deposition by the witness is waived, said deposition to have the same force and effect as if full compliance</p>	<p>1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23</p>	<p>1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23</p>	<p>1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23</p>
<p>1 had been had with all laws and rules of court 2 relating to taking of depositions. 3 IT IS FURTHER STIPULATED AND AGREED 4 that it shall not be necessary for any objections 5 to be made by counsel as to any questions, except 6 as to form or leading questions, and that counsel 7 for the parties may make objections and assign 8 grounds at the time of the trial, or at the time 9 said deposition is offered in evidence, or prior 10 thereto. 11 12 13 14 15 16 17 18 19 20 21 22 23</p>	<p>1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23</p>	<p>1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23</p>	<p>1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23</p>

<p>5</p> <p>1 I, Scott Wilmeth. CCR, RPR, State of 2 Alabama at Large, acting as commissioner, certify 3 that on this date, in accordance with the Federal 4 Rules of Civil Procedure and the foregoing 5 stipulations of counsel, there came before me at 6 2001 2nd Avenue, Birmingham, Alabama, on May 11, 7 2011, TRENTON McCLUSKEY, witness in the above 8 cause for oral examination, whereupon the 9 following proceedings were had: 10 11 TRENTON McCLUSKEY, 12 having been first duly sworn, was examined and 13 testified as follows: 14 THE COURT REPORTER: Usual 15 stipulations? 16 MR. SAXON: Please. 17 MS. DOWDY: Yes. 18 19 EXAMINATION BY MR. SAXON: 20 Q. State your full name for the record. 21 please, sir. 22 A. Trenton Jerome McCluskey. 23 Q. Okay. Mr. McCluskey, we met this</p>	<p>7</p> <p>1 Walker County. 2 Q. What's your educational background? 3 A. I got a B.A. degree in Florence from 4 International Bible College. I got an Juris 5 Doctorate from the Birmingham School of Law. I 6 have several certificates of training, death 7 investigations and so forth. 8 Q. Okay. And when did you graduate 9 from BSL? 10 A. 2000. 11 Q. Are you admitted to any bar? 12 A. No, sir. 13 Q. Where did you graduate from high 14 school? 15 A. Walker, 1980. 16 Q. Is that the Vikings? 17 A. Yes, sir. We agree on that, don't 18 we, George? 19 GEORGE CHAPMAN: Yeah. 20 Q. (By Mr. Saxon) By whom are you 21 presently employed? 22 A. Walker County Sheriff's Department. 23 Q. And what is your position?</p>
<p>6</p> <p>1 morning. I'm John Saxon. I represent George 2 Chapman. During the course of the deposition, 3 I'm going to ask you some questions. If at any 4 time I ask you a question you don't understand, 5 if you'd just stop me and get me to reword or 6 rephrase it and I'll do so. Can we agree on 7 that? 8 A. Yes, sir. 9 Q. Likewise, if you don't do that, I'll 10 assume you've understood my question. Is that 11 fair enough? 12 A. Yes, sir. 13 Q. Are you taking any medication or 14 suffering from any illness that would impair 15 your ability to think, hear, speak or remember 16 clearly today? 17 A. No, sir. 18 Q. Okay. What is your date of birth? 19 A. 20 Q. Your place of birth? 21 A. Jasper, Alabama. 22 Q. And where did you grow up? 23 A. Between Jasper and Oakman, here in</p>	<p>8</p> <p>1 A. Jail administrator. 2 Q. What are your duties? 3 A. Oversee jail operations. 4 Q. How long have you been in that job? 5 A. In this particular position, since 6 August the 10th of '95 -- wait a minute. No, 7 sir, August the 10th of '99. 8 Q. And to whom do you report? 9 A. The sheriff and/or chief deputy. 10 Q. Who is the chief deputy at present? 11 A. The acting chief deputy is Jim or 12 James Painter, P-a-i-n-t-e-r. 13 Q. Have you ever been arrested? 14 A. No, sir. 15 Q. Have you ever declared bankruptcy? 16 A. No, sir. 17 Q. Have you ever been terminated from a 18 job? 19 A. No, sir. 20 Q. Have you ever resigned in order to 21 avoid termination? 22 A. No, sir. 23 Q. Have you ever served in the</p>

<p>9</p> <p>1 military?</p> <p>2 A. No, sir.</p> <p>3 Q. What's your martial status?</p> <p>4 A. Been divorced since 1991 -- '90.</p> <p>5 Q. And was that your one and only</p> <p>6 marriage?</p> <p>7 A. Yes, sir.</p> <p>8 Q. And who were you married to?</p> <p>9 A. Gina Katherine McCluskey Shumate,</p> <p>10 and her maiden name was Simmons, I'm sorry.</p> <p>11 Q. She has remarried and her name is</p> <p>12 now Shumate?</p> <p>13 A. Yes, sir.</p> <p>14 Q. Does she still live in Walker</p> <p>15 County?</p> <p>16 A. Yes, sir.</p> <p>17 Q. Have you ever given a deposition</p> <p>18 before?</p> <p>19 A. Yes, sir.</p> <p>20 Q. How many times?</p> <p>21 A. I don't know, sir. I'd venture to</p> <p>22 say five or six.</p> <p>23 Q. Have any of them involved employment</p>	<p>11</p> <p>1 it settled by mediation. We didn't do a</p> <p>2 deposition. And that was about October of '08,</p> <p>3 I would guess, just before this incident.</p> <p>4 Q. So you don't think you gave a</p> <p>5 deposition in that case?</p> <p>6 A. The best I remember, I did not.</p> <p>7 Q. Who was the mediator? Do you</p> <p>8 recall?</p> <p>9 A. I do not. Daryl Masters represented</p> <p>10 me and on the other side was Tommy Carmichael</p> <p>11 and Charles Tatum.</p> <p>12 Q. Did you review any documents in</p> <p>13 preparation for your deposition?</p> <p>14 A. Today's?</p> <p>15 Q. Yes, sir.</p> <p>16 A. We glanced at the initial report,</p> <p>17 the letter that I sent to the sheriff.</p> <p>18 Q. Initial report?</p> <p>19 A. The letter that I sent, the letter</p> <p>20 of recommendation. Nothing extensively; just a</p> <p>21 brief glance at some documents.</p> <p>22 Q. All right. Initial report by whom,</p> <p>23 of what?</p>
<p>10</p> <p>1 cases arising out of the jail?</p> <p>2 A. No, sir.</p> <p>3 Q. What have they involved?</p> <p>4 A. Situations such as jail hangings.</p> <p>5 That's pretty much been the ones I've had to go</p> <p>6 on.</p> <p>7 Q. Y'all have had four or five</p> <p>8 hangings?</p> <p>9 A. Over the years, yes, sir.</p> <p>10 Q. And were these actions brought by</p> <p>11 the families of the inmate who hung him or</p> <p>12 herself, who claim y'all should have prevented</p> <p>13 it somehow?</p> <p>14 A. Yes, sir.</p> <p>15 Q. Okay. When was the most recent one</p> <p>16 of those?</p> <p>17 A. That we've had depositions on?</p> <p>18 Q. Yes, sir.</p> <p>19 A. It was about -- the depositions</p> <p>20 were -- I can tell you the name. The inmate</p> <p>21 was Jonathan Hagler. That was not a hanging,</p> <p>22 but it was an in-custody death. And it was the</p> <p>23 deposition that settled the case -- actually,</p>	<p>12</p> <p>1 A. To the best of my memory, we looked</p> <p>2 over my letter of recommendation that I sent to</p> <p>3 the sheriff.</p> <p>4 Q. Recommending George's termination?</p> <p>5 A. Yes, sir.</p> <p>6 Q. Okay.</p> <p>7 A. And there were some other documents</p> <p>8 there which I believe included the reports of</p> <p>9 Rachel Harper, Mary Phillips, perhaps Ms.</p> <p>10 Killingsworth, Cindy Killingsworth and maybe</p> <p>11 Jerry Williams' report may have been there. I</p> <p>12 didn't really read them, sir. I glanced them</p> <p>13 over. I don't even recall if Darrell Mote's</p> <p>14 report was in there or not.</p> <p>15 Q. How long have you been with the</p> <p>16 Walker County Jail?</p> <p>17 A. Since March the 10th of 1995.</p> <p>18 Q. What was your first position?</p> <p>19 A. Jailer.</p> <p>20 Q. Your next position?</p> <p>21 A. Lieutenant.</p> <p>22 Q. How long were you a jailer?</p> <p>23 A. I was promoted in '97, I believe.</p>

<p style="text-align: right;">13</p> <p>1 Q. How long were you a lieutenant?</p> <p>2 A. Until August of '99.</p> <p>3 Q. At which point you became</p> <p>4 administrator?</p> <p>5 A. Yes, sir.</p> <p>6 Q. Were you promoted from lieutenant to</p> <p>7 administrator by the sheriff?</p> <p>8 A. Yes.</p> <p>9 Q. Who was the sheriff then?</p> <p>10 A. Same sheriff we have now, John Mark</p> <p>11 Tirey.</p> <p>12 Q. All right. And you made a</p> <p>13 recommendation to the sheriff that George be</p> <p>14 terminated?</p> <p>15 A. Yes, sir.</p> <p>16 Q. And why did you make that</p> <p>17 recommendation?</p> <p>18 A. A culmination of several events.</p> <p>19 One, there had been an incident where I was</p> <p>20 contacted by Walker Baptist Medical Center.</p> <p>21 And if my memory is correct, it was Ginger</p> <p>22 Kilgore who was the nurse supervisor who</p> <p>23 contacted me and indicated that George had used</p>	<p style="text-align: right;">15</p> <p>1 to the sheriff. And the contact I had was from</p> <p>2 the hospital and told them not to send that man</p> <p>3 back out there.</p> <p>4 Q. So one of the bases for you</p> <p>5 recommending George be terminated was the Files</p> <p>6 incident, but you don't even know what the</p> <p>7 investigator concluded?</p> <p>8 A. I do not know the conclusion, the</p> <p>9 formal conclusion of the investigator's report.</p> <p>10 I do not. It would have gone to the sheriff,</p> <p>11 along with my letter. The sheriff would have</p> <p>12 both pieces of information to make his decision</p> <p>13 with.</p> <p>14 Q. All right. Sitting here today,</p> <p>15 what's your best judgment as to who was the</p> <p>16 investigator on the Files incident?</p> <p>17 A. We've got three incidents that</p> <p>18 occurred with George that I had to ask for an</p> <p>19 investigator to take care of. One involved</p> <p>20 Dayron Bridges, and it may well have been the</p> <p>21 Files incident. I think you're right. I think</p> <p>22 it was Dayron.</p> <p>23 There was another incident in which</p>
<p style="text-align: right;">14</p> <p>1 excessive force on Mr. George Files, who was an</p> <p>2 inmate with cardiac problems that was being</p> <p>3 housed at Walker Baptist. And again, from</p> <p>4 memory, I believe Ralph Williams, Jr. was the</p> <p>5 investigator on that particular incident.</p> <p>6 Q. And when did that supposedly happen,</p> <p>7 what I will call the Files incident?</p> <p>8 A. I would strictly be guessing, sir.</p> <p>9 It would be within three months or so of this</p> <p>10 incident, I would say, relatively close.</p> <p>11 Q. Within three months of the Decatur</p> <p>12 incident?</p> <p>13 A. Yes, sir, and that's definitely an</p> <p>14 approximation. I'm just not sure on the time</p> <p>15 frames.</p> <p>16 Q. Was Dayron Bridges the investigator</p> <p>17 on the Files incident?</p> <p>18 A. Could have been Dayron. Could have</p> <p>19 been Dayron, yes, sir.</p> <p>20 Q. And what did he conclude?</p> <p>21 A. I don't recall, remember the -- if</p> <p>22 he gave me a letter of conclusion,</p> <p>23 recommendation, so forth. I believe that went</p>	<p style="text-align: right;">16</p> <p>1 George was cleared of allegations from some</p> <p>2 inmates that I don't -- I don't even recall the</p> <p>3 exact particulars on the allegations; something</p> <p>4 to the effect he may have exposed himself to</p> <p>5 them or groped them or something of that</p> <p>6 nature. And again, I step back, hand to the</p> <p>7 investigator and leave it alone. But they did</p> <p>8 come to me and tell me that he was cleared of</p> <p>9 that incident.</p> <p>10 Q. Okay. So that one was not part of</p> <p>11 the basis for your recommendation, was it?</p> <p>12 A. No, sir, other than the fact that I</p> <p>13 would mention to the sheriff that, you know,</p> <p>14 "We have tied up investigators with this</p> <p>15 probationary employee on three occasions in his</p> <p>16 short term of employment here."</p> <p>17 Q. Well, if some guys want to -- some</p> <p>18 inmates want to fabricate something about</p> <p>19 George, that's not his fault, is it?</p> <p>20 A. No, sir; no, sir.</p> <p>21 Q. And that's not the first time you've</p> <p>22 heard of that happening, is it?</p> <p>23 A. No, sir. And in that same letter, I</p>

<p style="text-align: right;">17</p> <p>1 say he was cleared.</p> <p>2 Q. But you indicate that it formed, in</p> <p>3 some way, your basis of your recommending that</p> <p>4 a probationary employee be terminated, because</p> <p>5 it was tying up resources?</p> <p>6 A. Yes, sir.</p> <p>7 Q. Isn't that what you told the</p> <p>8 sheriff?</p> <p>9 A. That's information that goes to the</p> <p>10 sheriff for him to make the final decision</p> <p>11 with. We didn't sit and have a passionate,</p> <p>12 "Persuade me to fire or keep," discussion. I</p> <p>13 simply made a black and white report on paper</p> <p>14 to the sheriff, or recommendation.</p> <p>15 Q. Well, did you talk to him verbally</p> <p>16 about whether George should be terminated?</p> <p>17 A. I'm sure we had some kind of a</p> <p>18 discussion about it, but it wasn't one that was</p> <p>19 over a career that just really stands out and I</p> <p>20 don't remember any major discussions about it.</p> <p>21 Q. Was it in person or on the phone?</p> <p>22 A. I don't remember, sir.</p> <p>23 Q. Were you in his office or your</p>	<p style="text-align: right;">19</p> <p>1 he had been raped, and it was determined</p> <p>2 through medical exams and so forth that he was</p> <p>3 not raped, there was no evidence of it. And</p> <p>4 there was an officer who was suspended and</p> <p>5 investigated as a result of those allegations,</p> <p>6 because of the classification of the juvenile.</p> <p>7 The -- I don't recall who the investigator was</p> <p>8 that took care of that situation.</p> <p>9 Q. Who was the correction officer</p> <p>10 falsely accused?</p> <p>11 A. I don't know that he was falsely</p> <p>12 accused of misclassifying the inmate, but --</p> <p>13 Q. Well, who was accused of raping the</p> <p>14 juvenile?</p> <p>15 A. Lee Andrew Smith.</p> <p>16 Q. And what was his position? Jailer?</p> <p>17 A. No, sir, he was an inmate.</p> <p>18 Q. I'm sorry, so an inmate was accused</p> <p>19 of raping a juvenile?</p> <p>20 A. Yes, sir, a juvenile inmate who was</p> <p>21 being housed in an adult facility, who was</p> <p>22 placed in the cell with this adult inmate</p> <p>23 through the misclassification by a jailer.</p>
<p style="text-align: right;">18</p> <p>1 office?</p> <p>2 A. I really don't remember. I could</p> <p>3 tell you routinely, those type meetings are</p> <p>4 handled in a sensitive manner and would be in</p> <p>5 his office.</p> <p>6 Q. Okay. Do you recall anything that</p> <p>7 you and the sheriff discussed?</p> <p>8 A. I don't even remember for certain</p> <p>9 that there was such a meeting, but routinely,</p> <p>10 there would be on something of that nature.</p> <p>11 Q. In the time that you've been jail</p> <p>12 administrator, how many times have inmates made</p> <p>13 what were determined to be false allegations</p> <p>14 against a correction officer that had to be</p> <p>15 investigated and then were determined to be</p> <p>16 without merit?</p> <p>17 A. I don't recall of another incident.</p> <p>18 Now, I can't tell you definitively there's not</p> <p>19 been one, but just from my memory, where we</p> <p>20 went to the point of calling in someone from</p> <p>21 the outside -- yes, sir, I do. I recall of at</p> <p>22 least one.</p> <p>23 We had a juvenile who alleged that</p>	<p style="text-align: right;">20</p> <p>1 Q. Okay.</p> <p>2 A. That led to the suspension of the</p> <p>3 jailer.</p> <p>4 Q. All right. And who was the jailer?</p> <p>5 A. I believe it was James Collins. And</p> <p>6 I think he actually resigned as a result of</p> <p>7 this investigation, if my memory is correct.</p> <p>8 Q. All right. I appreciate that effort</p> <p>9 to be responsive. That's not quite what I was</p> <p>10 asking, because it sounds as if the allegations</p> <p>11 against the jailer were actually valid, in that</p> <p>12 he should not have put the juvenile in with the</p> <p>13 adult; correct?</p> <p>14 A. Yes, sir.</p> <p>15 Q. Okay. I was asking had any other</p> <p>16 correction officer been accused of something by</p> <p>17 an inmate, which was then investigated and then</p> <p>18 the allegations found not to have merit, as</p> <p>19 with the investigation that you told me about</p> <p>20 earlier involving Mr. Chapman?</p> <p>21 A. And I'm sure that through the</p> <p>22 numerous things that are looked into in the</p> <p>23 daily operations of the county jail, there are</p>

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1 some. Just from the top of my head, no, sir, I
 2 couldn't cite one for you. I know there are
 3 times -- when extensive force is used, it's
 4 routine that I'm going to ask somebody from the
 5 outside to look into it, and hopefully our
 6 person is justified. Now, some of those
 7 situations, I'm just trying to recall, and just
 8 immediately, I can't, I'm sorry.
 9 Q. All right. And what were the
 10 other -- when I asked you why you recommended
 11 George be terminated, you said there were
 12 several events. One was the Files incident at
 13 Walker Baptist. The second one was the groping
 14 incident in which George was cleared. Any
 15 others?
 16 A. Of course, this final incident with
 17 Mr. Decatur.
 18 Q. All right. Well, let's talk about
 19 that. What did you -- what was ultimately
 20 concluded about the Decatur incident?
 21 A. And again, once the investigator,
 22 Darrell Mote, had completed his investigation,
 23 I'm sure at the time I got a copy of it, but I

22

1 read over it and then made my recommendations
 2 based upon it.
 3 Q. All right. Well, what did Mr. Mote
 4 conclude?
 5 A. I've not read it in recent days. I
 6 did not review that.
 7 Q. So sitting here today, you don't
 8 recall what he concluded?
 9 A. No, sir, I do not.
 10 Q. All right. Let me see if I
 11 understand your testimony. You're telling me
 12 that you made a recommendation to the sheriff
 13 that George Chapman, correction officer, be
 14 terminated based on three events: One of them,
 15 the Walker Baptist Medical Center incident
 16 involving George Files, you're not sure who
 17 investigated it and you don't know the formal
 18 conclusion of the investigative report; the
 19 second one involving an allegation that George
 20 groped an inmate, he was investigated and
 21 actually cleared; and the third one, the
 22 Decatur incident, you don't recall what Mote
 23 concluded; is that correct?

23

1 A. It's correct that today, 2011, I do
 2 not recall the outcome of Darrell Mote's
 3 investigation. It's also correct that a
 4 supervising nurse from the hospital contacted
 5 me and said they didn't want this man back out
 6 there, and that led into an investigator
 7 looking into that matter, who would have
 8 reported their findings to the sheriff. And
 9 it's also correct that I don't remember, with
 10 the volume of investigations that we deal with
 11 here, all the details.
 12 Q. Okay. Do you know Ginger Kilgore
 13 personally?
 14 A. No, sir. I know who she is. I
 15 mean, I don't --
 16 Q. Have you ever met her?
 17 A. Yes, sir, I met her that day.
 18 Q. What is her race?
 19 A. She's white.
 20 Q. Okay. George Files, do you know
 21 the -- the inmate, do you know his race?
 22 A. He's white. He's dead now.
 23 Q. Darrell Mote, what is his race?

24

1 A. He's white.
 2 Q. You were here during the deposition
 3 of Ms. Harper; correct?
 4 A. Yes, sir.
 5 Q. Okay. I asked her some questions
 6 about the jail that I want to ask you. And I
 7 say that just because I may can kind of
 8 shorthand them and move a little more quickly.
 9 What would you say the jail population is right
 10 now?
 11 A. Probably right at 200 today.
 12 Q. Okay. And what would it have been
 13 about October or November of '08?
 14 A. About the same.
 15 Q. Okay.
 16 A. A little more or less, but --
 17 Q. And the number of corrections
 18 officers, how many do you have at present?
 19 A. The entire jail?
 20 Q. Yes, sir.
 21 A. 43 jail personnel.
 22 Q. All right. That's jail personnel?
 23 A. Yes, sir.

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1 Q. Are they all correction officers?

2 A. Well, there are 43 classified as

3 jail staff. Among those, you have a couple

4 that come over and run this front desk, so 41.

5 But again, one of those can be pulled if

6 they're needed inside the jail when we close

7 this (indicating), so 43.

8 Q. Okay. Corrections officers?

9 A. Yes, sir.

10 Q. Okay. And what would that number

11 have been in October or November of '08?

12 A. 43.

13 Q. Okay. Is there some ratio of

14 correction officer to inmate that you try to

15 maintain?

16 A. Yes, sir, we did a staffing analysis

17 with Dr. William Osterhoff and Mike Berg, Mike

18 Berg being from the National Institute of

19 corrections, Dr. William Osterhoff at AUM over

20 criminal justice, Auburn University Montgomery,

21 and he was also our federal court monitor

22 appointed by Judge Sharon Lovelace Blackburn as

23 we transitioned in this facility. We actually

26

1 surpass the ratio recommended. I don't recall

2 the exact numbers on that. Those figures were

3 reached back in -- prior to September of '98,

4 when we moved into this building.

5 Q. All right. What's your ratio now?

6 A. It would be the same.

7 Q. All right. So whatever it is, it's

8 good, because you surpass the recommended

9 ratio, but you don't know what it is?

10 A. That's correct.

11 Q. Okay. Now, you mentioned Judge

12 Blackburn. Of course, she's our Chief Judge in

13 the Northern District. When was it that she

14 weighed in on something? Was there a lawsuit

15 about prison overcrowding or facility

16 overcrowding?

17 A. Several aspects of the old facility

18 led to this facility being constructed as part

19 of consent decree, Randall v. Terrell -- Randy

20 Terrell v. Tommy Herring. It's a 1993 case,

21 and the consent decree created this building.

22 Q. And Judge Blackburn's the judge that

23 had that case?

27

1 A. That's correct.

2 Q. And her consent decree affected that

3 ratio. And what else did it affect?

4 A. It also affected the rank structure.

5 It affected the training, being the minimum

6 training standards, and also -- it was very

7 vague, in that it only recommended and

8 required, if I recall, the phrase was adequate

9 staffing. But it was reviewed by the National

10 Institute of Corrections, as well as with our

11 court monitor, and said we surpassed what would

12 be termed as adequate.

13 Q. All right. What kind of training do

14 you provide for your corrections officers?

15 A. They're each put through an 80 hour

16 jail management school. There are at least two

17 places in Alabama to get that, Northeast

18 Alabama Police Academy --

19 Q. Okay. At Jax State?

20 A. Yes, sir, and the State of Alabama

21 Department of Corrections. That's the minimum

22 standards training. They would each get that.

23 In addition, we send supervisors to some

28

1 supervision schools.

2 Q. Is there any training provided on

3 tasers?

4 A. Yes, sir. That's elective. You're

5 not required to qualify nor to carry a taser.

6 Q. Where is that taught?

7 A. Usually here.

8 Q. In-house?

9 A. Usually here, yes, sir.

10 Q. And what do you teach officers about

11 tasers?

12 A. I think Darrell Mote is the training

13 officer on the taser, if I'm not mistaken.

14 They have different ones. I think Darrell has

15 been assigned to the jail training.

16 Q. And do you have --

17 A. Baton training, we also have the ASP

18 baton training, and the entire jail staff just

19 went through that again. Even those who were

20 qualified, they were --

21 Q. And is that in-house?

22 A. It has been, but this time it was

23 conducted by Samford University, Mike Cole.

<p style="text-align: right;">29</p> <p>1 Q. Mike Cole is at Samford?</p> <p>2 A. He's employed by Samford, but I'm</p> <p>3 not -- let me pull some paperwork for you on</p> <p>4 that, sir. I just -- I know he's an employee</p> <p>5 of Samford, but I'm not sure that he does this</p> <p>6 training under the umbrella of Samford</p> <p>7 University and I don't want to mislead you on</p> <p>8 that.</p> <p>9 Q. What did he teach your correction</p> <p>10 officers about the use of batons?</p> <p>11 A. Well, that's a pretty broad</p> <p>12 statement or question. The general force</p> <p>13 continuum is we teach our officers the first</p> <p>14 step is officer's presence. The officer's on</p> <p>15 the scene. That commands a certain level of</p> <p>16 respect. The second step is loud verbal</p> <p>17 commands. Then the escalation of force begins.</p> <p>18 Use the minimum force required to bring about</p> <p>19 compliance with the orders, the reasonable</p> <p>20 orders of the officer.</p> <p>21 The use of the baton, the training</p> <p>22 teaches some body jabs to create distance. It</p> <p>23 also teaches striking the extremities,</p>	<p style="text-align: right;">31</p> <p>1 noncompliance. In that, as you escalate to a</p> <p>2 physical confrontation, they're also going to</p> <p>3 have to decide size of perpetrator, physical</p> <p>4 ability versus that particular officer, and</p> <p>5 then that they're going to -- before they</p> <p>6 engage, they're rapidly making decisions as to</p> <p>7 which weapon that they're qualified with that</p> <p>8 they're going to employ.</p> <p>9 Q. Mr. Decatur was a pretty big guy,</p> <p>10 wasn't he?</p> <p>11 A. He was a pretty good sized fellow,</p> <p>12 yes.</p> <p>13 Q. Okay. At any point in your review</p> <p>14 of all of this, were you made aware that Mr.</p> <p>15 Decatur had pulled George's shirt up over his</p> <p>16 head, so that he couldn't see?</p> <p>17 A. I don't think that I have</p> <p>18 personally, since calling for an investigator,</p> <p>19 asked anything about the particulars of the</p> <p>20 incident. I've heard some people say, yeah, he</p> <p>21 had George's shirt up, this, that and the</p> <p>22 other. I simply rely in good faith on the</p> <p>23 investigator's report.</p>
<p style="text-align: right;">30</p> <p>1 extremities being the arms and legs. And then,</p> <p>2 of course, the only time to strike the head is</p> <p>3 if eminent deadly or serious bodily harm is</p> <p>4 immediate by the perpetrator.</p> <p>5 Q. So the policies of the jail do</p> <p>6 permit -- there are circumstances under which</p> <p>7 an officer would be permitted to use the baton</p> <p>8 to strike the head?</p> <p>9 A. Yes, sir, if deadly force is</p> <p>10 justified, because that's what you're employing</p> <p>11 when you strike the head.</p> <p>12 Q. So I take it from your testimony</p> <p>13 that the officers are to use minimum force</p> <p>14 allowed to bring about compliance. But if a</p> <p>15 loud verbal command wasn't bringing about</p> <p>16 compliance, then you go to some form of</p> <p>17 physical restraint?</p> <p>18 A. Depending on the situation, several</p> <p>19 factors. The officer's going to have to do</p> <p>20 some rapid decision making on how they're going</p> <p>21 to escalate the force. Number one, the</p> <p>22 officer's going to have to determine the level</p> <p>23 of the threat being posed by this</p>	<p style="text-align: right;">32</p> <p>1 Q. Well, did you read all of the</p> <p>2 statements that were supplied by all of the</p> <p>3 officers present on November 2nd, 2008, the</p> <p>4 night of the incident?</p> <p>5 A. I know that I read at least the</p> <p>6 supervisor's statement and probably the others</p> <p>7 as well.</p> <p>8 Q. All right. So you know for a fact</p> <p>9 the only one you read was Sergeant Harper?</p> <p>10 A. No, sir, I didn't say I know for a</p> <p>11 fact it was the only one.</p> <p>12 Q. All right. Well, did you read</p> <p>13 Sergeant Harper's?</p> <p>14 A. I know that I did read hers and the</p> <p>15 others that were supplied to me and forwarded</p> <p>16 them on to the investigator.</p> <p>17 Q. All right. Well, tell me the other</p> <p>18 ones that you read for certain, that you know</p> <p>19 sitting here today under oath for this lawsuit</p> <p>20 in federal court, tell me the ones you know for</p> <p>21 a fact that you read at the time; not in</p> <p>22 preparation for your deposition, but at the</p> <p>23 time that you were deciding to recommend</p>

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1 George's termination.
 2 A. I couldn't definitively tell you
 3 which ones I read, other than when I got the
 4 supervisor's letter, I did put those together
 5 and forwarded them upstairs to the
 6 investigator.
 7 Q. So the only one you know for certain
 8 that you read was Sergeant Harper's?
 9 A. Prior to the investigation being
 10 complete. This is while it's still being
 11 investigated.
 12 Q. Okay.
 13 A. I, in no way, want to complicate nor
 14 interfere with that.
 15 Q. Okay. If in fact, as some have
 16 suggested, Decatur pulled George's shirt up and
 17 over his head, would you agree with me that
 18 would obstruct an officer's ability to have a
 19 field of vision and see what was going on,
 20 which would affect how that officer reacted?
 21 A. If a man's -- I want to make sure I
 22 understand you correct. If a man's shirt's
 23 pulled up over his head so that he can't see,

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1 is this going to change how he assesses and
 2 responds to the situation?
 3 Q. Yes, sir.
 4 A. Yes, sir, obviously it is.
 5 Q. When you were a jailer, did you have
 6 a baton?
 7 A. I don't think at the time when I was
 8 working with the County, I did. When I worked
 9 with the State, we carried a fiberglass baton.
 10 Q. Did you ever hit an inmate or
 11 someone in custody with it?
 12 A. I'm trying to remember for certain.
 13 I don't remember an incident where I actually
 14 deployed the baton, but again, I don't want to
 15 mislead. Yes, sir; yes, sir, I did.
 16 Q. Okay.
 17 A. September the 25th, 1993, Lorenzo
 18 Stokes.
 19 Q. What was your job at the time?
 20 A. I was a corrections officer for the
 21 State of Alabama Department of Corrections.
 22 Q. And what facility were you at?
 23 A. William E. Donaldson.

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1 Q. In west Jefferson County?
 2 A. Yes, sir, it's 100 Warrior Lane,
 3 Bessemer, Alabama.
 4 Q. And Lorenzo Stokes was an inmate?
 5 A. Yes, sir.
 6 Q. And what had Mr. Stokes done, if
 7 anything, to warrant you hitting him with a
 8 baton?
 9 A. We were in special management unit
 10 number two. Mr. Stokes was going to be given
 11 the privilege of a shower. That day, I
 12 exited -- the way that worked, you would escort
 13 a prisoner, having them handcuffed, from their
 14 cell, secure them in the shower. Then you exit
 15 that cell block, go around the exercise yard,
 16 go into SMU one, remove a prisoner there,
 17 secure them in the shower. By the time you
 18 make that process back, the person in SMU two
 19 should be completed with their shower. So we
 20 get to SMU two, and if my memory's correct,
 21 cell 13, Mr. Lorenzo Stokes was seated on his
 22 commode when the cell door rolled opened.
 23 And I said, "Mr. Stokes, would you

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1 like to take a shower?"
 2 He said, "Yes, I would."
 3 I said, "Okay. We'll return to
 4 you."
 5 The cell door closed. I went to the
 6 next cell, which was inmate Ronnie Townsend. I
 7 carried Mr. Townsend downstairs, having secured
 8 his hands properly, carried him to the shower,
 9 uncuffed him, went back to SMU one. I went
 10 back, removed Mr. Townsend, carried him up to
 11 his cell.
 12 Lorenzo Stokes' cell door began to
 13 roll open. The bean tray doors, where you
 14 would secure the hands, were welded closed.
 15 There had been prior problems with Mr. Stokes
 16 that had gone unreported by that
 17 administration. In fact, an Officer Price had
 18 his back broken two weeks before by Mr. Stokes.
 19 Mr. Stokes exited his cell with a bandana
 20 around his face, carrying two half pint milk
 21 cartons dripping with urine and feces. Mr.
 22 Stokes was about six-foot-five or so and about
 23 300 pounds, and he was belligerent, and he was

<p style="text-align: right;">37</p> <p>1 threatening the black male, Ronnie Townsend, 2 that I had just escorted back to his cell. 3 And I placed myself between those 4 two African-Americans and suffered severe 5 injuries for about 18 months, so this is the 6 only extension (indicating) I have now, from 7 that injury. I attempted to use my baton, yes, 8 sir. 9 Q. And did you succeed? Did you hit 10 him with it? 11 A. I don't know. 12 Q. So he beat you? 13 A. Threw me over the tier. I caught 14 the bottom rail of the tier with my right hand 15 and began to pull up and then I pulled the 16 baton back from the harness, threw it away from 17 my body, because it's 26 feet in the air there. 18 And he stomped my wrist, breaking it. 19 Q. Why were you throwing away the 20 baton? 21 A. Didn't want it to ram through my 22 body if I fell. 23 Q. All right. Can you recall any other</p>	<p style="text-align: right;">39</p> <p>1 shows the physical ability to take the life of 2 Ronnie Townsend and he has shown he's got the 3 ability to get to him, at that point, yes, I 4 can defend Ronnie Townsend's life, when I 5 believe that eminent threat to his life or 6 serious bodily harm is there, yes, sir. At the 7 point when I get Townsend secured in that cell, 8 I can no longer just go kill Stokes. 9 Q. But there was a point when you 10 perceived that Stokes was threatening another 11 inmate, that you could have hit him on the head 12 and it would have been okay, in your mind? 13 A. When that threat was eminent, the 14 bodily harm was present, the ability for that 15 to be carried out, yes, sir, I can protect that 16 third party's life. 17 Q. Have you ever heard Sheriff Tirey 18 say that he's hit inmates on the head with a 19 baton? 20 A. No, sir, I've never heard him say 21 that. 22 Q. Have you ever seen him do it? 23 A. Not on the head, no, sir.</p>
<p style="text-align: right;">38</p> <p>1 instance where you've used your baton on an 2 inmate or someone in custody? 3 A. I believe that's the only baton 4 incident in my career, to the best of my 5 knowledge. I don't recall -- I bought one for 6 this last class and gave it to a young man 7 here, who's working here, went through the 8 training with them. 9 Q. Would it have been justified that 10 day for you to hit Lorenzo Stokes in the head 11 with it? 12 A. At a point, it would have become 13 justified. I could not have started out by 14 striking him on the head. 15 Q. I'm not sure if I understand that 16 answer. Is it that had things continued, there 17 might have come a point hypothetically where 18 you would use it or looking back on it, given 19 everything that actually did happen, you would 20 have been justified in hitting him on the head 21 at some point? 22 A. Well, given -- at the point when Mr. 23 Stokes is threatening to take the life and</p>	<p style="text-align: right;">40</p> <p>1 Q. But you've seen him use a baton on 2 inmates? 3 A. In a riot situation here in '99 or 4 2000, Sheriff Tirey had his baton with him 5 here. I didn't see him physically striking 6 people with it, but we were moving throughout 7 the facility, calming things down. As far as 8 witnessing him striking, no, sir, I did not, 9 but he did have the equipment with him. And 10 nobody was carried to the hospital. Nobody got 11 medical treatment that I'm aware of on that 12 occasion, but -- 13 Q. But from other circumstances, you 14 know that he used it on that occasion? 15 A. No, sir, I know he had it with him 16 and we were meeting the force that came up that 17 day. 18 Q. Did you watch the video of George 19 Chapman and Mr. Decatur on November 2nd, 2008? 20 A. No, sir, I've not seen that. 21 Q. Okay. Do you know where that video 22 is? 23 A. No, sir, I do not. I would suggest</p>

<p style="text-align: right;">41</p> <p>1 that if that video exists, it would be with the</p> <p>2 investigator, Darrell Mote.</p> <p>3 Q. Is that something you could find out</p> <p>4 and if it exists, give it to your lawyer and</p> <p>5 let her produce it to us?</p> <p>6 A. Yes, sir; yes, sir.</p> <p>7 Q. What is the jail's policy about the</p> <p>8 monitors and the cameras and what's recorded on</p> <p>9 them?</p> <p>10 A. I don't recall the exact date that</p> <p>11 we had some enhancement done. We were on the</p> <p>12 old VHS system up until a particular point and</p> <p>13 then we were able to go to -- I don't know if</p> <p>14 it's digital or disk or how it's done at this</p> <p>15 point, but there was some changing done, and I</p> <p>16 don't know if it was prior to this incident,</p> <p>17 after it or even right around that time. So</p> <p>18 the jail's policy obviously would be that we're</p> <p>19 going to preserve any evidence and make it</p> <p>20 available to the courts, to the investigators</p> <p>21 and so forth.</p> <p>22 Q. I assume there came a point when the</p> <p>23 jail or the County got served with Mr.</p>	<p style="text-align: right;">43</p> <p>1 A. No, sir, I have not.</p> <p>2 Q. What is the policy of the jail as to</p> <p>3 how long tapes are kept, whether it's VHS or</p> <p>4 some other medium? I assume it's on -- is it</p> <p>5 on disk now or DVD?</p> <p>6 A. That's something I don't know for</p> <p>7 sure, sir, if it's strictly digitally kept and</p> <p>8 then is transferred to disk. I know Kelly</p> <p>9 Godfrey handles those materials for me here in</p> <p>10 the jail, as far as locating and finding and so</p> <p>11 forth. If there is something that has been</p> <p>12 turned over to the investigator, that would</p> <p>13 have been something that would have been gotten</p> <p>14 to him, if it exists. I'm not sure if it does.</p> <p>15 Q. All right. What's the jail's policy</p> <p>16 as to how long -- let me ask you -- let me</p> <p>17 break it down two ways. A general calm,</p> <p>18 uneventful night or day, if there is such a</p> <p>19 thing, where there are no altercations, fights</p> <p>20 inmate to inmate, inmate to correction officer,</p> <p>21 just kind of a routine, calm, peaceful day, do</p> <p>22 y'all keep all that footage?</p> <p>23 A. That's the thing. Now, this system,</p>
<p style="text-align: right;">42</p> <p>1 Chapman's lawsuit and you became aware that he</p> <p>2 had filed it?</p> <p>3 A. Yes, sir.</p> <p>4 Q. Okay. Did you send out any</p> <p>5 directive to anyone, telling them to find and</p> <p>6 preserve the videotape from the night of</p> <p>7 November 2nd, 2008?</p> <p>8 A. No, sir, by the time I was served,</p> <p>9 that investigation was over. Mr. Chapman was</p> <p>10 gone. Whoever had possession of that evidence,</p> <p>11 and I'm just certain it's going to be</p> <p>12 investigator Darrell Mote, still would have it.</p> <p>13 Q. Okay. Well, did you send out any</p> <p>14 directive that that be preserved or produced to</p> <p>15 you through use of the litigation?</p> <p>16 A. No, sir, I have not received</p> <p>17 anything telling me that -- to get in touch</p> <p>18 with him on that. I did receive a copy of</p> <p>19 something from our lawyers saying about the</p> <p>20 files and so forth. And no, I didn't contact</p> <p>21 Darrell.</p> <p>22 Q. Well, have you made a search for</p> <p>23 that tape?</p>	<p style="text-align: right;">44</p> <p>1 it's there, under this system. And I don't</p> <p>2 know if this system was in place at the time of</p> <p>3 this incident.</p> <p>4 Q. No. But right today, how long would</p> <p>5 you keep today's --</p> <p>6 A. That's what I'm saying, sir.</p> <p>7 Q. You don't know?</p> <p>8 A. From the date this system was put in</p> <p>9 place, we've got everything from the date this</p> <p>10 system came into existence, so I'm told.</p> <p>11 Q. Okay.</p> <p>12 A. Now, the old VHS that we were on</p> <p>13 before this system, it was like 24 hours and</p> <p>14 then it's recycled. But an incident of this</p> <p>15 degree, that tape should have been pulled if we</p> <p>16 were on the VHS.</p> <p>17 Q. So the policy was that an incident</p> <p>18 like the one we've talked about and we're going</p> <p>19 to talk about some more with George and Mr.</p> <p>20 Decatur, that tape would have been -- should</p> <p>21 have been preserved?</p> <p>22 A. Yes, sir, if we were on the VHS</p> <p>23 system, it should have been passed to the</p>

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1 investigator. If we were on the digital
 2 system, it should still be available to us.
 3 Q. Why would you not have looked at it
 4 when you're trying to decide on a
 5 recommendation to the sheriff?
 6 A. At the point when an investigator
 7 that's trained to investigate these incidents
 8 has been handed the case, I'm out of it. I
 9 give him -- my recommendation is based on the
 10 incidents I have, and the sheriff's going to be
 11 aware of that. He's going to be aware of my
 12 limited knowledge into these incidents. He's
 13 also going to have the information provided to
 14 him by the investigator. He may have far more
 15 and should have more information than what I'm
 16 privy to. The investigator is not going to bog
 17 down in coming and reporting to me and so
 18 forth.
 19 Q. Well, you were here during Ms.
 20 Harper's deposition, and I showed her some
 21 exhibits. And you don't have to agree with me,
 22 but I guess I'll ask if you would agree at
 23 least that based on what was Plaintiff's

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1 Exhibit Number 1, which was a report by her, a
 2 report by Officer Williams and a report by
 3 Officer Clifton, there are some differences
 4 and/or discrepancies? Would you agree with
 5 that?
 6 A. It seemed to be, in listening to
 7 your discussions, yes, sir.
 8 Q. Okay. Sergeant Harper says, "I saw
 9 Mr. Chapman, Officer Chapman get out his baton
 10 and hit Decatur with it." There's no mention
 11 of a baton and hitting in the other two,
 12 Officer Williams or Officer Clifton. Sergeant
 13 Harper says the probes from the taser were
 14 still in Decatur; no mention of that in the
 15 other two, Williams or Clifton. Officer Harper
 16 says Decatur was no longer a threat after he
 17 was tased, he was on the floor. The other two
 18 reports, Williams and Clifton, suggest at least
 19 some effort to get off the floor and to
 20 continue to fight.
 21 Now, if you had those kinds of
 22 differences in front of you, why wouldn't you
 23 say, "You know, I need to go look at that

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1 dad-gum tape. Do we still have that thing?"
 2 A. There are other reports that are in
 3 front of us as well, and those reports also
 4 agree that the man was being hit while he was
 5 down and not posing a threat.
 6 Q. But you've already told me that
 7 you're not certain you looked at those reports.
 8 A. But you're asking me to be basing it
 9 on those three alone, which is unfair when I've
 10 got others.
 11 Q. Okay. In the training that jailers
 12 receive, do you do any situational training
 13 with exercises where they're asked to respond
 14 to altercation with inmate situations?
 15 A. In each of the specialized
 16 trainings, whether it's the OC spray, the baton
 17 training, not so much with the taser, less so,
 18 but with those two devices, there is at least
 19 discussion and announcement of, "Suppose you're
 20 here in this particular situation. How would
 21 that change the setting?" So the training does
 22 touch on some of the different scenarios.
 23 There's been some discussion about

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1 the OC spray earlier. The OC spray is
 2 different from the other two weapons, in that
 3 it also incapacitates the officer when it's
 4 deployed upon the other person, so --
 5 Q. Well, it could, I mean, if it --
 6 A. It will. You're going to be
 7 affected. I mean, you know, ask any of us that
 8 have used it or been around when someone else
 9 used it --
 10 Q. Meaning it gets in your eyes and --
 11 A. Yes, sir, it does.
 12 Q. When you were making your decision
 13 to recommend George Chapman's termination, were
 14 you aware that Joseph Decatur was a sex
 15 offender?
 16 A. I'm sure that I was.
 17 Q. That he, among other offenses, was
 18 in your facility for rape?
 19 A. I'm sure that I was, yes, sir.
 20 Q. If George was there with him and had
 21 already -- I mean, unquestionably there was a
 22 fight and Decatur was hitting an officer;
 23 right? I mean, you would agree with that?

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1 A. That's been reported.

2 Q. Okay. And four female officers show

3 up on the scene with a sex offender. Do you

4 think it would be fair for George to factor

5 that into the equation?

6 A. I think whatever the scene is that

7 any officer's on, they have to deal with that

8 scene and their situation at that given time,

9 so yeah, George is going to factor that in.

10 But these other officers, the fact that they're

11 female doesn't eliminate the fact that they're

12 trained correctional officers there to respond

13 with weapons and to bring a situation under

14 control, and we've entrusted this jail to them.

15 If a situation was continuing to escalate, they

16 could have called for rove deputies or done

17 some other things to bring help in here.

18 Q. So it would be totally irrelevant,

19 not a factor or not a fair consideration for

20 George to have in mind that, "Here's a guy

21 who's in for rape and we've got four female

22 officers and he could grab one of them and do

23 something or go into the cell with them and

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1 close the door and --"

2 A. No, sir, the pendulum wouldn't have

3 to swing that far. You can have the ability to

4 use discretion and understand who your support

5 group is. At the same time, that support group

6 reaches beyond this jail with the radios to

7 bring more manpower if needed, and Jerry

8 Williams sitting there, that called for these

9 female officers, had the same ability to pick

10 up and get rove deputies or whatever he needed

11 here.

12 Q. With some admitted time delay;

13 right?

14 A. Maybe, maybe not. There may have

15 been some upstairs. If that threat is that

16 strong and that eminent, that call should have

17 gone forward. We're not going to let our

18 female officers be raped and taken hostage, nor

19 are we going to require one of our jail staff

20 members to be sacrificed.

21 Q. When does the jail investigate an

22 altercation with an inmate? What are the

23 criteria? What level does it have to rise to?

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1 A. Well, part of it is my discretion,

2 part of it. When it reaches my desk and

3 there's a recommendation for an investigation

4 by a supervisor or an employee, if there are

5 conflicting stories, if there is injury that

6 requires medical treatment, I'm going to ask

7 for an independent investigator to look at it.

8 And by independent, that's somebody outside the

9 jail setting.

10 Q. Well, Mr. Mote is a deputy sheriff,

11 right, or a sheriff's investigator?

12 A. Yes.

13 Q. And you report to the sheriff?

14 A. Yes, sir.

15 Q. I mean, it's all family; right?

16 MS. DOWDY: Object to form.

17 Q. (By Mr. Saxon) And literally in

18 this county, it is family. I mean, there are a

19 lot of relatives -- the sheriff's got relatives

20 working are here, doesn't he?

21 A. His wife works here, yes, sir.

22 Q. Okay. Anybody else?

23 A. His ex-brother-in-law.

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1 Q. Ms. Harper have relatives working

2 here when she was here?

3 A. I don't know.

4 Q. Okay. When you say an independent

5 investigator, you just mean somebody not on the

6 jail staff?

7 A. That's correct.

8 Q. Okay. What does Mrs. Tirey do for

9 the department?

10 A. She's a receptionist here at the

11 front.

12 Q. Okay. And who does she report to?

13 A. Carol Herron is the chief clerk over

14 there.

15 Q. Okay. And who does Ms. Herron

16 report to?

17 A. To me.

18 Q. And you report to the sheriff?

19 A. And the chief deputy.

20 Q. Okay. When you sent your letter or

21 memo to the sheriff recommending George

22 Chapman's termination, did he respond in any

23 way in writing?

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1 A. I don't believe so.

2 Q. Were you ever part of any discussion

3 with the sheriff at which anyone else was

4 present when y'all discussed whether George

5 should be terminated?

6 A. I don't remember a particular

7 meeting, but on the other hand, in this type

8 setting, I could see where probably at some

9 point the investigator and the sheriff and

10 myself would sit down and probably did, and I

11 just don't recall it right now. And it may be

12 that the investigator met with the sheriff.

13 Q. But you made your recommendation and

14 the sheriff ratified it and y'all terminated

15 George?

16 A. Yes, sir.

17 MS. DOWDY: Wait a minute. I'm

18 going to object to the form. Y'all didn't

19 terminate him.

20 A. The sheriff did. The sheriff's the

21 hiring and firing authority.

22 Q. (By Mr. Saxon) How many direct

23 reports do you have?

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1 A. I don't understand the phrase direct

2 reports.

3 Q. People who report directly to you,

4 as opposed to people down the chain who report

5 up and ultimately you're above them all, but --

6 A. Right now, two lieutenants and one

7 sergeant and potentially -- I'm trying to think

8 of what slots are open so we get this

9 accurately. We have the two lieutenants, but

10 we have three lieutenant slots. One is vacant

11 right now. Because of the one vacant

12 lieutenant slot, there is a sergeant who

13 reports directly to me.

14 Q. Okay. So normally, it would be

15 three lieutenants report directly to you.

16 Right now it's two, with one vacancy and a

17 sergeant is temporarily filling that in and

18 that makes them a direct report?

19 A. That's correct.

20 Q. Okay. Who are the two lieutenants?

21 A. Richard Jesus and Tommy Miller.

22 Q. And who's the sergeant?

23 A. Charles Hannah. And on the

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1 weekends -- just for clarification, sir, on the

2 weekends, when the lieutenants are off, those

3 sergeants can report directly to me also. That

4 would be three sergeants.

5 Q. Okay. Did Charles Hannah replace

6 Sergeant Harper?

7 A. I'm sure that's right.

8 Q. Who promoted Sergeant Harper from

9 jailer? You?

10 A. The sheriff.

11 Q. The sheriff. Okay. Did you make

12 that recommendation?

13 A. No, sir.

14 Q. Tell me about the food service

15 operation here at the jail.

16 A. ABL Food Service is a contracting

17 company out of Baton Rouge, Louisiana. They

18 provide three meals a day. The employees of

19 ABL work directly for ABL, not us.

20 Q. So they bring food up from Baton

21 Rouge three times a day? Wouldn't it be cold

22 by the time it gets here?

23 A. Well, that would be an unreasonable

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1 thing to even --

2 Q. So they have people here locally?

3 A. Yes, sir, that work directly for the

4 company that's headquartered in Louisiana.

5 Q. Well, do they make it in Baton

6 Rouge?

7 A. They occupy our kitchen here on

8 site.

9 Q. Okay. They work in your kitchen.

10 Is there a head ABL on-site person?

11 A. There is a food service director,

12 yes, sir.

13 Q. All right. Who is that?

14 A. Presently, the lady's -- I know her

15 first name, but there's a lady named Carolyn

16 who's back there.

17 Q. Okay. Who does Carolyn deal with on

18 behalf of the jail?

19 A. Me.

20 Q. Okay. And so you tell her what the

21 population is and therefore how many meals

22 she'll need to prepare?

23 A. No, sir; no, sir.

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1 Q. Does she go count noses that --
 2 A. She gets her information from
 3 booking.
 4 Q. Okay.
 5 A. There is a board which sustains the
 6 jail population and how it changes there in
 7 booking.
 8 Q. Okay.
 9 A. And her daily routine, as far as
 10 interacting routinely, would be with booking.
 11 Q. Who does she deal with in booking?
 12 A. Whoever the booking officer is. It
 13 could be any of our jail staff.
 14 Q. Okay. Who provides the ovens,
 15 toasters, coffee pots, pots and pans,
 16 silverware, all of that?
 17 A. They're part of the physical plant
 18 here.
 19 Q. Okay. They belong to the jail?
 20 A. Yes, sir.
 21 Q. Who decides when the inmates will be
 22 served these meals? Is that something you
 23 decide?

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1 A. No, sir, that's a part of the
 2 contract. Those times are pretty well set and
 3 there's a little bit of leeway in there. And
 4 if my memory serves me correctly, it's been a
 5 long time since I've read that contract, it
 6 says something to this effect: That there will
 7 never be a gap of more than 12 or 13 hours
 8 between meals. Other than that, it's pretty
 9 loose.
 10 Q. Is that something that you decided,
 11 to keep the inmates from getting too restless?
 12 A. Well, it's -- and nutritionists
 13 helped to decide that as well.
 14 Q. And I take it that would be 12, 13
 15 hours between the evening meal and the morning
 16 meal?
 17 A. Yes, sir.
 18 Q. Okay. And do y'all have a nice, big
 19 cafeteria where all the inmates go and eat?
 20 A. No, sir.
 21 Q. Okay. So y'all go collect it up
 22 from these folks and take it to the inmates and
 23 shove it through the bean holes?

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1 A. That's correct, they have rolling
 2 food carts that are heated and they roll those
 3 around.
 4 Q. And that's y'all's decision that
 5 that's how they'll be served?
 6 A. Yes, sir.
 7 Q. I guess doing it that way cuts down
 8 on the food fights?
 9 A. I hope.
 10 Q. And so has the jail retained a
 11 nutritionist to help you work on the diet?
 12 A. The food service provider has
 13 registered dieticians on hand.
 14 Q. And y'all work with them on what you
 15 want in the menus?
 16 A. Yes, sir, they send menus that are
 17 signed off on for approval, that have been
 18 evaluated for caloric content and nutritional
 19 value.
 20 Q. Do you sign off on the menus?
 21 A. Yes, sir. Really, any of our jail
 22 staff can sign off on the menus. The only ones
 23 that we receive to sign off on are like if it's

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1 a holiday or if there's a change in something,
 2 if they're eliminating something, if there's a
 3 special diet, medically ordered diet, something
 4 like that.
 5 Q. And y'all will tell them that for
 6 some particular inmate, if they have dietary
 7 needs based on their health?
 8 A. We try to get the doctor to
 9 communicate directly with ABL. That way, the
 10 communications are far more accurate.
 11 Q. And your jail employees, does this
 12 food service operation feed any of them?
 13 A. Under Alabama law, one person on
 14 each meal -- one employee will partake of each
 15 meal, so they do. Sometimes one or two will,
 16 but yeah.
 17 Q. Is there a place where the employees
 18 go to --
 19 A. No, sir, they usually eat, if
 20 they're eating that food, on their post.
 21 Q. Okay. But I mean pick up kind of a
 22 carry-out?
 23 A. They deliver it to them. They're

<p style="text-align: right;">61</p> <p>1 good to bring it by to you.</p> <p>2 Q. Okay. And so you -- do you get to</p> <p>3 pick which of your three meals, if you wanted</p> <p>4 to eat one, and you can just tell them, "I want</p> <p>5 breakfast today," or, "I want dinner tomorrow"?</p> <p>6 A. I've never done it, but I'm sure if</p> <p>7 I were to go back there and say, "Hey, Miss</p> <p>8 Carolyn, I'd like a meal," she would prepare</p> <p>9 one and mark it as an employee meal.</p> <p>10 Q. Okay. You don't do what they were</p> <p>11 doing up in Decatur or wherever it was, with</p> <p>12 the collecting the money and not spending much</p> <p>13 of it on the meals? Do you know what I'm</p> <p>14 talking about?</p> <p>15 A. No, sir, I have no knowledge. Yes,</p> <p>16 sir, I'm familiar with what you're talking</p> <p>17 about.</p> <p>18 Q. You are familiar and y'all don't do</p> <p>19 that?</p> <p>20 A. We don't do that, that's correct.</p> <p>21 We're not even a party to the contract.</p> <p>22 Q. Who is? The County, the sheriff's</p> <p>23 department?</p>	<p style="text-align: right;">63</p> <p>1 and still is. I still talk to Miss Paula</p> <p>2 occasionally.</p> <p>3 Q. But I'm not sure you answered my</p> <p>4 question.</p> <p>5 A. I'm not sure I'm capable of</p> <p>6 answering your question. I did not -- to the</p> <p>7 best of my memory, I've never initiated any</p> <p>8 inquiry concerning her. If there were reports</p> <p>9 from inmate workers of any such discriminatory</p> <p>10 act, yeah, I would have looked into it. To</p> <p>11 what extent, it just doesn't stick out as</p> <p>12 something that was very major.</p> <p>13 Did it happen? Maybe. I just don't</p> <p>14 remember, sir. The fact that two females went</p> <p>15 back there asking, yeah, that's Trent's style.</p> <p>16 I personally wouldn't go back there asking all</p> <p>17 the females what they thought and so forth. I</p> <p>18 would have asked a couple of female officers to</p> <p>19 look into it if I had received those</p> <p>20 allegations.</p> <p>21 Q. Sitting here today, do you remember</p> <p>22 if you received any allegations?</p> <p>23 A. I do not remember, sir. And I did</p>
<p style="text-align: right;">62</p> <p>1 A. I'm sure it's the County Commission</p> <p>2 that's contracted with ABL.</p> <p>3 Q. All right. Well, let me ask you</p> <p>4 about Ms. Richardson. Do you know her?</p> <p>5 A. I know Miss Paula, yes.</p> <p>6 Q. What was going on back in October of</p> <p>7 2008, in terms of some kind of inquiry or</p> <p>8 investigation or something about whether she</p> <p>9 was playing favorites with inmates? Do you</p> <p>10 know what I'm talking about?</p> <p>11 A. I've heard the discussion about it.</p> <p>12 I remember our interaction about it.</p> <p>13 Q. And I'll ask you about that in a</p> <p>14 minute.</p> <p>15 A. Sure.</p> <p>16 Q. But what was the underlying nature</p> <p>17 of whatever inquiry was taking place?</p> <p>18 A. I don't know the particulars of what</p> <p>19 had gone on there. There's so many incidents</p> <p>20 in a single day that I couldn't tell you what</p> <p>21 had gone on then. The interaction, though,</p> <p>22 with Miss Paula was always pleasant, was always</p> <p>23 good, it was never a terrible thing, you know,</p>	<p style="text-align: right;">64</p> <p>1 look through the ABL file today, and there are</p> <p>2 no notes in there. There was nothing</p> <p>3 noteworthy.</p> <p>4 Q. Did you look through the ABL file</p> <p>5 this morning or during lunch?</p> <p>6 A. It was this morning.</p> <p>7 Q. All right. You alluded to</p> <p>8 conversation you and George Chapman had about</p> <p>9 Paula Richardson and this alleged incident.</p> <p>10 Tell me what you recall about the conversation</p> <p>11 with George.</p> <p>12 A. And my memory may be failing me. It</p> <p>13 may have been on the phone, but I thought we</p> <p>14 were in person. So if George says it was on</p> <p>15 the phone, perhaps it was on the phone.</p> <p>16 I do remember saying to George,</p> <p>17 "What is your role in this matter? Are you</p> <p>18 acting as her lawyer? Are you a union steward</p> <p>19 or what is your capacity in this?"</p> <p>20 And the facts are, I will not</p> <p>21 discuss with a third party someone else's --</p> <p>22 just like I wouldn't concerning George. Even</p> <p>23 though Miss Paula's not my direct employee, if</p>

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1 there was a matter that we are discussing,
 2 that's hers. That's her matter. That's not
 3 for George or anybody else, no matter what
 4 their relationship, unless she wants to give it
 5 to him; and in that case, I'm okay with it.
 6 Q. What do you remember George saying
 7 about whatever it is that took place?
 8 A. I don't remember. I remember that
 9 he mentioned Miss Paula and that's pretty
 10 much -- at that point, I remember thinking, you
 11 know, "I can't get into this. Her relationship
 12 with us, with a third party, I just can't do
 13 it."
 14 Q. But other than mentioning Paula's
 15 name, what do you recall him saying happened?
 16 A. I remember him saying something
 17 about was I aware of the situation, what was
 18 going on back there or making some type of
 19 inquiry into what was going on back there. And
 20 at that point, I wasn't going to discuss it
 21 with him.
 22 Q. But what did he tell you was going
 23 on back there?

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1 A. I don't recall, sir.
 2 Q. Well, did it involve -- do you
 3 remember him saying it involved some suspicion
 4 or allegation or question about whether Paula
 5 Richardson was showing some kind of favoritism
 6 for black inmates over white ones?
 7 A. I really didn't remember that at
 8 all, until this morning when I heard it
 9 mentioned. I couldn't tell you yes or no, that
 10 that's what was said. My first instinct, when
 11 I reflect from something from that kitchen, is
 12 there's been an allegation of contraband being
 13 brought. That's usually the big item back
 14 there.
 15 Q. Contraband would be something like
 16 potatoes, that violate the nutrition
 17 requirements?
 18 A. Usually a cigarette, or we've even
 19 had -- anything. Anything the other inmates
 20 can't get. And I don't remember anything about
 21 Miss Paula being looked at in a negative light
 22 on any issue. I do remember talking with her.
 23 And the best I remember, it was a preventive

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1 thing, a caution thing, and I don't remember if
 2 it was about some of them trying to get her to
 3 bring something or if it was about some of them
 4 claiming she was playing favorites or whatever
 5 it might be. There's so many inmate games that
 6 go on back there.
 7 Q. When do you remember talking to
 8 Paula about this thing?
 9 A. Oh, I don't remember. It was prior
 10 to George and my conversation, but not long; a
 11 couple of days or so, I guess. I don't know
 12 exactly.
 13 Q. And you said a preventive thing.
 14 What do you mean by that?
 15 A. Well, you don't want to lose
 16 somebody if the inmates are playing games
 17 and -- we've had inmates to accuse contractual
 18 employees of bringing things, that weren't
 19 bringing things. We have had inmates do that,
 20 in an effort to get them to bring things. And
 21 we've had inmates to accuse people of playing
 22 favorites, who weren't playing favorites. And
 23 we've had some that were legitimate, that the

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1 people were bringing things, so --
 2 Q. And on those occasion, if it was
 3 legitimate that the cafeteria workers were
 4 bringing contraband, so do you then say
 5 something to ABL and they get rid of them?
 6 A. Well, we don't tell them to get rid
 7 of them. It's their employee. We would simply
 8 say they've lost their security clearance. But
 9 again, we would first start with Miss
 10 Carolyn -- well, at that time it would have
 11 been Miss Ruby, and asked her how's the
 12 performance and ask her if she's seen anything
 13 and could she do anything to correct it, talk
 14 to them, see what she could do.
 15 Q. With the loss of security clearance,
 16 they cannot get access to the jail; right?
 17 A. That's correct, this facility.
 18 Q. Which, in effect, means they aren't
 19 going to be working here anymore; right?
 20 A. At this facility, that's correct.
 21 But there was -- that never happened with Miss
 22 Paula.
 23 Q. But you do remember, a couple of

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1 days before George talked to you about Paula
 2 Richardson, having a conversation with her
 3 about something along these lines?
 4 A. I remember two visits with Miss
 5 Paula. One, while she was an employee here,
 6 putting it in that context and in that setting,
 7 one, George, Miss Paula and I met at Captain
 8 D's and visited, and I think that was maybe in
 9 reference to Miss Paula wanting to work
 10 directly for the County. And then two, there
 11 was some something that we interacted about
 12 just before George and I talked on that
 13 occasion. I still don't remember the
 14 conversation. I remember the content. That's
 15 the weird thing. I can remember the content,
 16 responding to George and saying, "What is your
 17 role in this? Are you her union steward? Are
 18 you her lawyer? What's your role? I've got to
 19 have some clarification here. I've got to know
 20 in what capacity we're talking." So that's
 21 pretty much the extent of my memory of it.
 22 Q. But he clearly was in some kind of
 23 advocate role for her?

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1 A. Oh, yes, yes, intervening role of
 2 some sort.
 3 Q. Since you have been the
 4 administrator at the jail, have you had a
 5 former correction officer named Sam Sherrer who
 6 worked here?
 7 A. Yes, sir.
 8 Q. Did he ever use force on an inmate?
 9 A. Yes, sir.
 10 Q. On more than one occasion?
 11 A. Yes, sir.
 12 Q. What were the instances?
 13 A. From my memory, there were reports
 14 to me of someone who was handcuffed in booking,
 15 and this has been sometime back, that
 16 reportedly Mr. Sherrer slapped that person.
 17 There was a report of a person --
 18 Q. Did you say slapped them?
 19 A. Yes, sir.
 20 Q. And they were handcuffed?
 21 A. Yes, sir. There was a report of Mr.
 22 Sherrer slapping someone on the hallway and --
 23 Q. An inmate?

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1 A. Yes, sir. And the -- Arthur Clark.
 2 Mr. Sherrer reportedly used his baton on Arthur
 3 Clark and that's when he was fired.
 4 Q. All right. When he slapped an
 5 inmate while cuffed, that would certainly be a
 6 form of physical contact not warranted by the
 7 circumstances; right?
 8 A. Yes, sir, I would say that's right.
 9 Q. Okay. But he wasn't terminated for
 10 that?
 11 A. I believe I recommended it.
 12 Q. But the sheriff didn't terminate
 13 him?
 14 A. To the best of my knowledge, at that
 15 point he did not.
 16 Q. Okay.
 17 A. I don't remember if he suspended him
 18 or what action he took.
 19 Q. And then when Sam slapped an inmate
 20 in the hallway, was that inmate in cuffs?
 21 A. I don't believe that one was in
 22 cuffs.
 23 Q. Okay. What did he slap that inmate

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1 for?
 2 A. I don't remember, sir. I just
 3 remember there were like three things there.
 4 Q. And was he terminated for slapping
 5 the inmate in the hallway?
 6 A. To the best of my memory, no, sir.
 7 Q. Okay. And what was Sam Sherrer's
 8 position?
 9 A. He was a jail sergeant.
 10 Q. When all three of these things took
 11 place?
 12 A. I don't remember if he was when all
 13 three of them took place or not, sir.
 14 Q. He was a jailer prior to being a
 15 sergeant?
 16 A. Yes, sir.
 17 Q. What's Mr. Sherrer's race?
 18 A. He's white.
 19 Q. Is Ms. Clifton still employed by the
 20 jail?
 21 A. No, sir.
 22 Q. What's she doing now? Do you know?
 23 A. I do not, sir.

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1 Q. Did you make a deal with Mr. Decatur
2 that if he wouldn't sue you individually, you
3 would get him out of jail?
4 A. No, sir.
5 Q. Did he get out of jail after all
6 this happened with George?
7 A. Yes, sir. I don't know exactly how
8 long after, but it wasn't immediately after, I
9 don't believe.
10 Q. Did the County -- did he file a
11 lawsuit against the County or the sheriff's
12 department or somebody, in addition to or other
13 than Mr. Chapman?
14 A. Yes, sir.
15 Q. And was it settled? Was he paid
16 some money?
17 A. Yes, sir.
18 Q. What for?
19 A. Meadowbrook paid him and I don't
20 know the exact --
21 MS. DOWDY: Do you know the terms of
22 the settlement? Were they confidential?
23 THE WITNESS: They are.

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1 MS. DOWDY: Okay. Stop, then.
2 Q. (By Mr. Saxon) Well, was he paid
3 with -- by a public entity? I mean, he sued
4 a --
5 MS. DOWDY: He didn't file a
6 lawsuit. There was a claim filed and
7 Meadowbrook -- and if it's a confidential
8 settlement, he's not going to discuss it.
9 MR. SAXON: The claim's against a
10 public entity, right, the jail, the county, the
11 sheriff?
12 MS. DOWDY: I don't know how the
13 claim was filed, but if that was a confidential
14 settlement, and I've not looked at it, he's not
15 going to discuss it.
16 MR. SAXON: Well, you can instruct
17 him not to answer, but --
18 MS. DOWDY: I instruct you not to
19 answer anything about a confidential
20 settlement, but I haven't looked at it.
21 MR. SAXON: When it's a matter of
22 public record or should be?
23 MS. DOWDY: Maybe. It depends on

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1 how the money was paid, and I don't know that.
2 And unless he does, I don't want him to --
3 MR. SAXON: Well, no, it's public
4 business. It doesn't matter -- if an insurance
5 company paid it, it doesn't matter. It's
6 public business.
7 MS. DOWDY: I don't know what the
8 terms of the settlement were. I'm not going to
9 let him discuss it until I've read it. I
10 wasn't the lawyer involved in that.
11 MR. SAXON: Okay. Well, I'm just
12 trying to avoid us being back here.
13 MS. DOWDY: Well, I mean, surely you
14 can understand I can't let him testify to
15 something I've never seen. If it's a
16 confidential settlement, John, I don't know.
17 MR. SAXON: And I'm not trying to
18 play games with you, but --
19 MS. DOWDY: I know you're not, and I
20 understand where you're coming from. I just --
21 MR. SAXON: I go through this all
22 the time, when the other side says, "Well,
23 look, you know, we're settling -- the school

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1 board's settling this, but it's got to be
2 confidential." And then in the next board
3 meeting, they approve it publicly and the
4 Talladega Daily Home runs it. I mean, it's a
5 game that everybody plays, but if it's a public
6 entity, it's public business.
7 MS. DOWDY: I'm not playing with
8 you. I'm just --
9 Q. (By Mr. Saxon) Okay. Did y'all pay
10 him \$10,000.00?
11 A. I truly don't remember.
12 Q. Okay. Now, go back to my earlier
13 question. Why did y'all settle with him? Did
14 you just compromise a disputed claim or did you
15 think he had been wronged somehow?
16 MS. DOWDY: If you remember. I
17 don't even know what part you played in it.
18 A. We were in Huntsville. And I say
19 "we," Darrell and myself.
20 Q. (By Mr. Saxon) Darrell Mote?
21 A. Daryl Masters.
22 Q. Okay.
23 A. And --

<p>77</p> <p>1 MS. DOWDY: You don't need to</p> <p>2 discuss anything you discussed with your</p> <p>3 attorneys about that either.</p> <p>4 A. I just don't remember, sir. I mean,</p> <p>5 I -- I know that as far as letting a sex</p> <p>6 offender out of jail, I don't have the</p> <p>7 authority to do that.</p> <p>8 Q. Well, is he one of your inmates</p> <p>9 today?</p> <p>10 A. Yes, sir.</p> <p>11 Q. Okay. He's still in the jail?</p> <p>12 A. Yes, sir, he's here right now.</p> <p>13 Q. Okay. Mr. Decatur?</p> <p>14 A. The same man he had this conflict</p> <p>15 with.</p> <p>16 Q. Okay.</p> <p>17 A. Now, for the record, I don't want to</p> <p>18 be deceitful to anybody. He's been out and</p> <p>19 he's back, so he wasn't out very long.</p> <p>20 Q. He liked that ABL food too much?</p> <p>21 A. I guess that's right, sir.</p> <p>22 Q. What did he do to get back?</p> <p>23 A. I don't know if it was a failure to</p>	<p>79</p> <p>1 investigator was looking into it.</p> <p>2 Q. Do you know where Sam Sherrer is</p> <p>3 these days? Is he working for Sumiton?</p> <p>4 A. That's my understanding, sir.</p> <p>5 Q. Okay. Now, when Sheriff Tirey sent</p> <p>6 George Chapman a letter telling him he was</p> <p>7 terminated, that was dated November 7, and I'm</p> <p>8 assuming this is a typo, because it's the year</p> <p>9 2008 -- I'm sorry, 208 and I assume that's</p> <p>10 supposed to be 2008. It shows a copy going to</p> <p>11 you. Did you see that letter?</p> <p>12 A. Yes, sir, I'm sure I did.</p> <p>13 Q. Okay. It says, "It is with regret</p> <p>14 that I must inform you that your work</p> <p>15 performance is unsatisfactory at the Walker</p> <p>16 County Jail." What about his work performance</p> <p>17 was unsatisfactory?</p> <p>18 A. Well, certainly the use of the baton</p> <p>19 was a part of his work performance.</p> <p>20 Q. So that's what's being referred to</p> <p>21 there?</p> <p>22 A. That would certainly be part of it.</p> <p>23 Now, this is the sheriff's letter. He may have</p>
<p>78</p> <p>1 report or what it was.</p> <p>2 Q. Well, what did he do to get out?</p> <p>3 Was his sentence up or was that part of the</p> <p>4 settlement?</p> <p>5 A. On sex offenders at that time --</p> <p>6 MS. DOWDY: Since when do they have</p> <p>7 the ability to let somebody out of jail as part</p> <p>8 of a settlement? I'm sorry.</p> <p>9 MR. SAXON: I'm just asking</p> <p>10 questions. We lawyers just ask questions.</p> <p>11 A. Sex offenders had to be cleared by</p> <p>12 Jim Painter before they were released. Now</p> <p>13 Dayron Bridges clears them.</p> <p>14 Q. (By Mr. Saxon) And who is that?</p> <p>15 A. He's an investigator. And Jim</p> <p>16 Painter is the acting chief deputy. So that's</p> <p>17 the extent of that. It's -- however he was</p> <p>18 released.</p> <p>19 Q. Did you ever review Officer</p> <p>20 Clifton's taser report about this incident?</p> <p>21 A. I couldn't definitively answer that,</p> <p>22 sir. What papers I received, I attached them</p> <p>23 together and sent them upstairs, since an</p>	<p>80</p> <p>1 some information from immediate supervisors</p> <p>2 that I'm unaware of. I just -- I don't want to</p> <p>3 mislead you in any way. I can't tell you the</p> <p>4 sheriff's meaning there, but certainly at the</p> <p>5 time he wrote this letter, he had all of our</p> <p>6 reports, including that of the investigating</p> <p>7 officer.</p> <p>8 (Whereupon, Plaintiff's Exhibit</p> <p>9 Number 1 was marked for</p> <p>10 identification.)</p> <p>11 Q. (By Mr. Saxon) Let me show you what</p> <p>12 I'm marking as Plaintiff's Exhibit 1 to your</p> <p>13 deposition and give you a chance to look at</p> <p>14 that.</p> <p>15 A. (Witness reviews document.)</p> <p>16 Q. Have you had a chance to look at</p> <p>17 that, sir?</p> <p>18 A. Yes, sir.</p> <p>19 Q. Are you familiar with this policy on</p> <p>20 the use of batons for Walker County?</p> <p>21 A. Yes, sir.</p> <p>22 Q. Okay. Is this the policy that</p> <p>23 applies to the jail?</p>

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1 A. Yes, sir.
 2 Q. And it applied in November of 2008?
 3 A. Yes, sir.
 4 Q. Okay. Now, on the second page, in
 5 terms of use of the baton, it says, "The baton
 6 may be used by an officer to subdue a violently
 7 resisting subject." You don't take issue with
 8 that? You would agree with that, right, that
 9 if the subject is violently resisting, you can
 10 use the baton?
 11 A. Yes, sir, that's the policy. It
 12 plainly says so.
 13 Q. Okay. And it can also be used in
 14 self-defense, according to the policy; right?
 15 A. Yes, sir.
 16 Q. And then it could be used to defend
 17 a third party, such as another officer;
 18 correct?
 19 A. That's correct.
 20 Q. Okay. Now, paragraph number one
 21 under that says, "When striking with the baton,
 22 officers should attempt to avoid striking the
 23 following areas," and they mention the head.

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1 Would you admit that it's certainly possible
 2 that if an officer were going to strike someone
 3 in a more permissible area, like the arm or
 4 shoulder, that the subject could move and they
 5 could actually hit them in the head?
 6 A. Sure.
 7 Q. Okay. Now, paragraph two, this
 8 would be Roman numeral III, number two,
 9 "Deliberate strikes to these areas," that would
 10 include the head, "should be limited to
 11 situations in which the use of deadly force is
 12 authorized or necessary." So I take it that
 13 there are times when the baton policy
 14 recognizes a baton could be used in certain
 15 circumstances to hit someone on the head?
 16 A. Yes, sir.
 17 Q. Did Sergeant Harper make a
 18 recommendation to you that George Chapman be
 19 terminated?
 20 A. I believe she did, sir. I believe
 21 that's when I forwarded her letter, along with
 22 mine and any others that I had received
 23 upstairs.

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1 Q. What was Sergeant Harper's basis for
 2 thinking George should be terminated?
 3 A. Since I had received nothing from
 4 the investigator and to my knowledge it was
 5 still ongoing, I didn't delve into it. I just
 6 shipped it straight to the sheriff, let he and
 7 the investigating officer look at all the
 8 information.
 9 Q. Did you and Sergeant Harper discuss
 10 George after the Decatur incident?
 11 A. No, sir; no, sir.
 12 Q. Did you talk to anybody after the
 13 Decatur incident?
 14 A. Did I?
 15 Q. Yes, sir, about what happened,
 16 George's role, et cetera?
 17 A. I'm trying to remember of any
 18 particular thing. Obviously we reported it to
 19 the sheriff, the chief deputy, got an
 20 investigator. I'm sure I interacted, to some
 21 degree, with that investigator. And I'm sure
 22 that I asked for reports to be generated by
 23 everybody that was on shift. And beyond that,

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1 I don't remember any discussions about it.
 2 Q. Did you ever talk to George Chapman
 3 about what happened that night?
 4 A. I don't believe I did. Since an
 5 investigator was going to interview him, I did
 6 not.
 7 Q. Do you remember when a couple of
 8 trustees escaped from the facility while
 9 washing cars?
 10 A. Yes, sir.
 11 Q. Who were they? Was one of them
 12 named Sanford?
 13 A. Andy Sanford.
 14 Q. Andy Sanford?
 15 A. Yes, sir.
 16 Q. And he just needed a change of
 17 scenery and walked off?
 18 A. Mr. Sanford was washing the chairman
 19 of the County Commission's automobile and Mr.
 20 Ham rick had left the keys in that car.
 21 Q. So he took it for a test-drive?
 22 A. He was gone for about six hours,
 23 yes, sir.

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1 Q. Did he return it on his own or did
2 he just come back or did he --
3 A. No, sir. It was towed from the
4 place it was stopped, yes, sir.
5 Q. Okay. It was reported stolen and he
6 got stopped by some fellow officers somewhere
7 else?
8 A. I believe that an off-duty Jefferson
9 County officer encountered the car around
10 Quinton and our guys were looking for it and we
11 got him over around Quinton, if I remember.
12 Q. So what happened to Andy Sanford?
13 A. He's in prison.
14 Q. Not in this facility?
15 A. No, he's in a State prison.
16 Q. Y'all -- were charges pressed
17 against him for --
18 A. I believe so, yes, sir.
19 Q. Auto theft?
20 A. I'm not sure of the specific
21 charges, but he did get more charges out of
22 that event.
23 Q. Okay. And Justin Williamson, did he

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1 do something similar?
2 A. Yes, sir, Justin left from the car
3 wash area also.
4 Q. In a vehicle?
5 A. No, sir, he left -- I don't know. I
6 don't know his mode of leaving. Someone could
7 have picked him up or he could have left on
8 foot. I just don't know.
9 Q. And was he ultimately caught?
10 A. No, sir, he killed himself.
11 Q. Okay. Committed suicide or had an
12 accident or what?
13 A. Suicide in Florida.
14 Q. Very shortly thereafter or some
15 later time?
16 A. It was shortly. I can't put a time
17 frame on it, but under a week.
18 Q. Okay. Did the two of them leave in
19 close proximity to each other or was there
20 some -- do you remember when the times were?
21 When did Sanford leave?
22 A. I don't remember, sir.
23 Q. How about Williamson?

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1 A. I just -- I don't remember.
2 Q. But since you've been jail
3 administrator?
4 A. Oh, yes, sir.
5 Q. Now, was somebody -- was a
6 corrections officer out there --
7 A. No, sir, we don't post somebody out
8 there.
9 Q. Okay.
10 A. And each of these people -- the
11 orders came from upstairs for Sanford to be
12 allowed to be an inmate worker.
13 Q. Okay. And the order from upstairs
14 from whom?
15 A. I believe -- let me think through
16 this. It was a request -- I'm sorry, it was a
17 request from an investigator that -- Dayron
18 Bridges, I believe. I'm pretty sure that's
19 right.
20 Q. Bridges thought that Sanford was
21 trustworthy enough to let -- be out there
22 unattended, unsupervised and wash cars?
23 A. Well, all of the car wash people are

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1 unattended, so I guess to that extent, yes.
2 Q. Okay. And after Sanford took off in
3 the commission chair's car, was Bridges
4 terminated for that poor judgment?
5 A. No, no, he was not. And again, that
6 wouldn't have been a decision for him to make.
7 It was something that I made the decision on,
8 but based upon his recommendation.
9 Q. All right. And on whose
10 recommendation did Justin Williamson get to go
11 wash cars unsupervised?
12 A. I pulled Justin Williamson because
13 at the time, in running his local charges, they
14 were all pretty minor.
15 Q. So you thought he would be a fair
16 risk to put out there, that he wasn't going to
17 run?
18 A. Yes, sir; yes, sir.
19 Q. Were you disciplined or terminated
20 in any way when Justin Williamson took off?
21 A. I wasn't terminated, but we had a
22 meeting or two.
23 Q. You and the mayor -- I mean you and

<p style="text-align: right;">89</p> <p>1 the sheriff?</p> <p>2 A. Yes, sir, the sheriff and</p> <p>3 investigators. It was discussed.</p> <p>4 Q. Okay. For the record, what is</p> <p>5 Dayron Bridges' race?</p> <p>6 A. He's white.</p> <p>7 Q. Do y'all still let people go</p> <p>8 unattended wash cars?</p> <p>9 A. Yes, sir, the car wash is unattended</p> <p>10 by officers.</p> <p>11 Q. Do they wash visiting lawyers' cars?</p> <p>12 A. No, sir.</p> <p>13 MS. DOWDY: I wish.</p> <p>14 (Whereupon, Plaintiff's Exhibit</p> <p>15 Number 2 was marked for</p> <p>16 identification.)</p> <p>17 Q. (By Mr. Saxon) Let me show you what</p> <p>18 has been marked as Plaintiff's Exhibit Number 2</p> <p>19 and give you a chance to look at that.</p> <p>20 A. (Witness reviews document.) Yes,</p> <p>21 sir.</p> <p>22 Q. First of all, did you draft this</p> <p>23 letter?</p>	<p style="text-align: right;">91</p> <p>1 to the attention of the hiring and firing</p> <p>2 authority while this person's employment is</p> <p>3 being reviewed and they're on a probationary</p> <p>4 status, yes, sir.</p> <p>5 Q. But you've already told me that</p> <p>6 inmates make wild, is my word, but wild</p> <p>7 accusations?</p> <p>8 A. Yes.</p> <p>9 Q. They claim that somebody, some</p> <p>10 cafeteria person did or didn't give them</p> <p>11 contraband, they claim that an inmate groped</p> <p>12 them or mistreated them. That happens all the</p> <p>13 time, doesn't it?</p> <p>14 A. It happens frequently, yes, sir, and</p> <p>15 it's investigated on a case-by-case basis.</p> <p>16 Q. And do you recommend the termination</p> <p>17 of other corrections officers who are accused</p> <p>18 of things and then exonerated, cleared?</p> <p>19 A. If they then have a pattern of other</p> <p>20 things that come forth for which they're not</p> <p>21 cleared.</p> <p>22 Q. Okay. But so the pattern doesn't</p> <p>23 include the first one or it does include the</p>
<p style="text-align: right;">90</p> <p>1 A. Yes, sir.</p> <p>2 Q. And is this the letter in which you</p> <p>3 made the recommendation to the sheriff that</p> <p>4 George be terminated?</p> <p>5 A. I requested that the sheriff review</p> <p>6 the incident involving George Chapman and that</p> <p>7 my recommendation is dismissal, yes, sir.</p> <p>8 Q. And in that last paragraph, you talk</p> <p>9 about a pattern of activities. Do you see that</p> <p>10 in your last sentence?</p> <p>11 A. Yes, sir.</p> <p>12 Q. Are you talking about the pattern</p> <p>13 evidenced by the three instances cited above?</p> <p>14 A. Yes, sir.</p> <p>15 Q. All right. But the first instance,</p> <p>16 he was totally cleared; right?</p> <p>17 A. That's correct.</p> <p>18 Q. Okay. Well, something in which</p> <p>19 somebody has no culpability whatsoever, they've</p> <p>20 actually been investigated and cleared, that's</p> <p>21 not part of a pattern that justifies their</p> <p>22 termination, is it?</p> <p>23 A. I think it's something to be brought</p>	<p style="text-align: right;">92</p> <p>1 first one?</p> <p>2 A. For the hiring authority to look at</p> <p>3 on a probationary employee, as the</p> <p>4 administrator, I remind him of it. He puts</p> <p>5 whatever weight into it that he so chooses.</p> <p>6 Q. And then the second incident, you</p> <p>7 cite the October 9, 2008 incident, but you</p> <p>8 don't make any mention there what Mr. Bridges'</p> <p>9 conclusion was, do you?</p> <p>10 A. I don't know that I received it.</p> <p>11 Q. Okay. So in other words, you, at</p> <p>12 the date -- at the point at which you wrote</p> <p>13 this letter, you didn't know what Bridges'</p> <p>14 conclusion was, did you?</p> <p>15 A. I know that a nurse called me out</p> <p>16 there and said she didn't want this man back</p> <p>17 out there. I know that I went to visit with</p> <p>18 George Files in a follow-up and George Files</p> <p>19 told me, "Trent, I'm going to do some time in</p> <p>20 prison. My health isn't good. This happened.</p> <p>21 That man hit me whenever I switched the channel</p> <p>22 from BET to Animal Planet." He said, "Am I</p> <p>23 going to pursue it? No." That's what George</p>

<p style="text-align: right;">93</p> <p>1 Files said. That's what I know about that 2 situation. I didn't try to get him to pursue 3 it or anything else. I was through. 4 Q. And you don't indicate what Darrell 5 Mote's investigation concluded, do you? 6 A. That would have gone to the sheriff. 7 Q. Okay. 8 A. We report to the sheriff. He gets 9 all the pieces of the puzzle to make his 10 decision on. 11 Q. All right. What was it that George 12 Chapman did wrong the night of the Joseph 13 Decatur incident? 14 A. Based upon what I have seen, 15 striking the man in the top of the head, not 16 the forehead, as has been stated, in the top of 17 the head with a baton while he was seated was 18 wrong. 19 Q. All right. Anything else? 20 A. Out of that particular incident, I 21 don't know. I haven't -- again, once it was 22 given to the investigator, that report from the 23 investigator and his conclusions on it would</p>	<p style="text-align: right;">95</p> <p>1 wouldn't you think? George may be a little 2 higher, taller. 3 Q. So you can't just take a baton -- as 4 you come down like that (indicating), that's 5 where you'd hit anybody, wouldn't it? It would 6 almost always be on the top of the head? 7 A. If that's the way he's going to 8 employ the baton, I'm still accurate in my 9 recommendation. 10 Q. No, I'm just asking you -- 11 A. If he's going to put that kind of 12 effort into striking the top of an inmate's 13 head, he had to be trying to do it. 14 Q. Well, that's a separate matter. I'm 15 asking you right now what George did wrong, and 16 you've told me one thing and that was striking 17 on top of the head with a baton while seated. 18 And I'm asking you the basis for your 19 conclusion that Decatur was seated when this 20 happened, and you said something about, I 21 guess, how tall George is. 22 A. Yes, sir. No, I didn't say about 23 how tall George is. We're comparing the two</p>
<p style="text-align: right;">94</p> <p>1 have gone to the sheriff. I simply brought to 2 the sheriff's attention these incidences that 3 have been brought to my desk. They were then 4 investigated by a person not employed by the 5 jail staff and those findings would have been 6 forwarded to their boss, the sheriff. 7 Q. All right. You say that what George 8 did wrong on November 2, 2008 was striking Mr. 9 Decatur on the top of the head with a baton 10 while seated. What's your basis for concluding 11 that Joseph Decatur was seated when he was 12 struck? 13 A. If you look at the height of these 14 two men, I don't see how this man could have 15 stood in front of him and struck him on the top 16 of the head. 17 Q. I don't understand. 18 A. His injury, sir, was up here 19 (indicating), not here. 20 Q. Okay. And what would you say is the 21 height difference between George and Joseph 22 Decatur? 23 A. They're pretty similar in height,</p>	<p style="text-align: right;">96</p> <p>1 people. I think enough of George to hope the 2 man was seated. I hope he didn't put that kind 3 of effort into hitting that man on top of the 4 head. 5 Q. So you -- what makes you conclude 6 that he came down, straight down like that, as 7 opposed to from the side? 8 A. Because it's on the top of the head. 9 Q. Well, the guy could go to duck. I 10 mean, he could go to hit his arm and -- 11 MS. DOWDY: I'm going to object. 12 You're arguing with him. I mean, he's given 13 you his basis for his opinion. You're arguing 14 with him. 15 Q. (By Mr. Saxon) Would you admit that 16 George could be swinging at his arm or shoulder 17 or chest, not the head, not the neck, the 18 throat, the things that are forbidden, and 19 Decatur could move and get hit on the top of 20 the head? 21 A. Well, certainly we can speculate and 22 say, yeah, he could be in the process of 23 swinging and this man could duck, but there's</p>

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1 been no evidence brought in that says that.
 2 Q. I'm just saying what's the evidence
 3 he was seated?
 4 A. I think we've got reports that he
 5 was seated from Rachel Harper.
 6 Q. She says that he's lying on the
 7 floor.
 8 MS. DOWDY: I'm going to object.
 9 That's not what she said. You go back and look
 10 at her report.
 11 MR. SAXON: Well, you can object,
 12 but you can't coach your witness by telling him
 13 what it says.
 14 A. I believe she says he was seated. I
 15 believe one of the other testimonies was that
 16 he was making effort to stand up while he was
 17 seated.
 18 Q. (By Mr. Saxon) So you did think he
 19 did -- you read the other reports?
 20 A. I think I've heard them today, sir.
 21 MS. DOWDY: Can we take a break?
 22 MR. SAXON: Sure.
 23 (Whereupon, a recess was taken.)

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1 Q. (By Mr. Saxon) Going back to
 2 Plaintiff's Exhibit Number 2 to your
 3 deposition, you mentioned three investigations
 4 in your letter to the sheriff, one done by
 5 Investigator Ralph Williams. Did you ever see
 6 a copy of that investigation?
 7 A. I don't believe so.
 8 Q. The second was by Investigator
 9 Bridges. Did you ever see a copy of that
 10 investigation?
 11 A. I don't believe so.
 12 Q. The third one was by --
 13 A. Hang on a minute, sir. Ralph did
 14 provide me with a copy of his investigation.
 15 Yes, sir, he did.
 16 Q. Okay. And Darrell Motes'
 17 investigation of the Decatur incident, did you
 18 ever see a copy of it?
 19 A. I don't remember seeing one of
 20 those, sir. And I tried to call Darrell to
 21 check on the video, but his radio's not on.
 22 Q. Okay. Let me ask you about staffing
 23 in the jail. Sergeant Harper testified this

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1 afternoon that there are about 13 or so
 2 corrections officers would be on duty at any
 3 one time, or at least kind of the optimal
 4 number?
 5 A. That are assigned to a shift.
 6 Q. That are assigned to, I'm sorry, a
 7 shift, and you have three shifts during the
 8 day. What is the least number you're aware of
 9 that have actually ever worked a shift?
 10 A. By policy, no less than five.
 11 Q. All right. And have you ever had a
 12 day or a shift which, for whatever reason, you
 13 had less than five?
 14 A. Not with my authorization nor my
 15 knowledge of it while it was occurring, no,
 16 sir.
 17 Q. Okay. Have you learned after the
 18 fact a time or two that that happened?
 19 A. One time.
 20 Q. How many did you have?
 21 A. Four.
 22 Q. Okay. So when she testified to that
 23 today, you would concur that that has happened

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1 at least once?
 2 MS. DOWDY: I'm going to object. I
 3 don't think that was her testimony.
 4 Q. (By Mr. Saxon) All right. Well, so
 5 you know of an incident in which as few as four
 6 people have been present for a shift; correct?
 7 A. Yes, sir.
 8 Q. Okay. When was that?
 9 A. I don't remember the date, but Ron
 10 Pearson was the sergeant on the shift. I
 11 delegate scheduling. Scheduling is generally
 12 done by the shift commander. Ordinarily, that
 13 shift commander is a lieutenant. In cases
 14 where we don't have a lieutenant, there will be
 15 a sergeant. So there was one occasion when Ron
 16 covered with four people, but he knows we don't
 17 do that. He doesn't -- he's at the courthouse
 18 now, but we discussed that.
 19 Q. Okay. Was he terminated for
 20 violating policy on the minimum number of
 21 people, of corrections officers on a shift?
 22 A. No, sir.
 23 Q. And who was that?

<p style="text-align: right;">101</p> <p>1 A. Ron Pearson.</p> <p>2 Q. He was a sergeant here then?</p> <p>3 A. Yes, sir.</p> <p>4 Q. What is his race?</p> <p>5 A. He's white.</p> <p>6 Q. All right. Let me ask you about</p> <p>7 M-dorm. Are there times when there would only</p> <p>8 be one correction officer on the floor and one</p> <p>9 in the control room in M-dorm? Has that ever</p> <p>10 happened?</p> <p>11 A. There should never be just one</p> <p>12 person opening doors in M-dorm. The -- and I</p> <p>13 say never. That's a word you never say. The</p> <p>14 person's always in the control room. That's</p> <p>15 24/7, 365, there's always somebody in central</p> <p>16 control. Likewise, there should always be</p> <p>17 somebody in booking and in pod control. Those</p> <p>18 three posts have to have somebody there. The</p> <p>19 rovers should be able to pull together and back</p> <p>20 each other up. The doors in M-dorm should not</p> <p>21 be opened without two officers present,</p> <p>22 particularly for routine operations like giving</p> <p>23 someone a paper.</p>	<p style="text-align: right;">103</p> <p>1 A. I wouldn't be aware of it, sir,</p> <p>2 unless there is an incident that causes it to</p> <p>3 be magnified. I'm aware of making a policy to</p> <p>4 protect our officers, as well as to secure that</p> <p>5 dorm.</p> <p>6 Q. All right. So this policy reflected</p> <p>7 by Defendant's Exhibit Number 2 to Mr.</p> <p>8 Chapman's deposition, that's a policy you made?</p> <p>9 A. Yes, sir, and it's endorsed by the</p> <p>10 sheriff. Only the sheriff can make policy.</p> <p>11 Q. Okay. And the way you understood it</p> <p>12 when you drafted that is that the two officers</p> <p>13 are to be standing there together at the cell</p> <p>14 door?</p> <p>15 A. In the dorm.</p> <p>16 Q. Sir?</p> <p>17 A. Within the dorm.</p> <p>18 Q. Okay.</p> <p>19 A. Within the dorm.</p> <p>20 Q. So one could be on one level and one</p> <p>21 on another?</p> <p>22 A. Yes, sir. That gives them</p> <p>23 sufficient time to respond, if need be. They,</p>
<p style="text-align: right;">102</p> <p>1 Q. In your experience, since you've</p> <p>2 been the jail administrator, does it ever</p> <p>3 happen from time to time, for whatever reason?</p> <p>4 A. Well, it happened on this occasion.</p> <p>5 Q. Okay. Well, on the night when</p> <p>6 Sergeant Pearson ran the operation with just</p> <p>7 four people, if you had somebody in pod control</p> <p>8 and somebody in the control room and somebody</p> <p>9 in booking, that only left one rover to do</p> <p>10 everything else; right?</p> <p>11 A. Right.</p> <p>12 Q. Okay. So if any cell had been</p> <p>13 opened on that shift for any reason, it would</p> <p>14 have been in violation of the policy; right?</p> <p>15 A. Unless there was no one housed in</p> <p>16 booking and the booking officer accompanied</p> <p>17 him.</p> <p>18 Q. Okay. Are you aware of any instance</p> <p>19 of which you have knowledge, other than</p> <p>20 November 2nd, 2008 involving Officer Chapman</p> <p>21 and Mr. Decatur, in which an officer has opened</p> <p>22 doors in M-dorm without some second officer</p> <p>23 standing there?</p>	<p style="text-align: right;">104</p> <p>1 however, cannot open two doors in that dorm and</p> <p>2 comply with policy. There is another piece of</p> <p>3 paper that's posted by this one that indicates</p> <p>4 that this is a segregation unit and these</p> <p>5 people are separated for security reasons, so</p> <p>6 you can't -- there would be no reason to have</p> <p>7 one up here opening doors and one down here</p> <p>8 (indicating), exposing those people one to the</p> <p>9 other within that unit.</p> <p>10 Q. When this facility was built as a</p> <p>11 result of the consent order, has there been</p> <p>12 continuous monitoring by the court of the jail</p> <p>13 and the facilities and so forth since then, or</p> <p>14 was there a point at which that was all closed?</p> <p>15 A. It was closed after a lengthy</p> <p>16 monitoring and we had substantially fulfilled</p> <p>17 the requirements of the decree.</p> <p>18 Q. When did the monitoring end?</p> <p>19 A. It's been about two or three, maybe</p> <p>20 four years now. I'd have to look, sir. I'd</p> <p>21 strictly be guessing.</p> <p>22 Q. After George Chapman talked to you</p> <p>23 about Paula Richardson, was that toward the end</p>

<p style="text-align: right;">105</p> <p>1 of October of 2008?</p> <p>2 A. I don't know, sir.</p> <p>3 Q. It was a week or two or so before</p> <p>4 you recommended his termination; right?</p> <p>5 A. I guess, sir. I don't know.</p> <p>6 Q. What is Charles Hannah's race?</p> <p>7 A. He's white.</p> <p>8 Q. And Tommy Miller?</p> <p>9 A. He's white.</p> <p>10 Q. And Richard Jesus?</p> <p>11 A. D.J. is -- he's African-American,</p> <p>12 but he also has some Latino influence.</p> <p>13 Q. Did I ask you -- did you tell me</p> <p>14 Tifney Clifton's not with the jail anymore?</p> <p>15 A. No, sir, she resigned.</p> <p>16 Q. What's she doing?</p> <p>17 A. I don't know.</p> <p>18 MR. SAXON: That's all I have, sir.</p> <p>19 Your lawyer may have a question or two for you.</p> <p>20</p> <p>21 EXAMINATION BY MS. DOWDY:</p> <p>22 Q. You were asked earlier what Mr.</p> <p>23 Chapman did wrong on November the 2nd, 2008.</p>	<p style="text-align: right;">107</p> <p>1 cell door is opened at a time?</p> <p>2 A. Yes.</p> <p>3 Q. Are these policies in place because</p> <p>4 of -- in part, because of the fact that the</p> <p>5 inmates housed in M-dorm are violent offenders?</p> <p>6 A. Thinking back on today, George</p> <p>7 testified that when he brought Decatur up, it</p> <p>8 was after he had ripped the tabletop off and</p> <p>9 was breaking windows and so forth, and he takes</p> <p>10 him to M-dorm because this is a more secure</p> <p>11 dorm. That's exactly why we don't go in there</p> <p>12 and loosely open doors with one person.</p> <p>13 Q. And prior to -- or after Mr. Chapman</p> <p>14 had been hired on a full-time basis, was that</p> <p>15 when the inmate escaped from work release?</p> <p>16 A. I'm not sure of the chronology on</p> <p>17 that. I'm just not sure. I'm not sure if he</p> <p>18 was full-time or part-time when that occurred.</p> <p>19 I think it was shortly after he became</p> <p>20 full-time, but to just sit here and tell you I</p> <p>21 remember, I really don't.</p> <p>22 MS. DOWDY: Okay. I don't have any</p> <p>23 other questions.</p>
<p style="text-align: right;">106</p> <p>1 If he opened the door in -- a cell door in</p> <p>2 M-dorm and he was the only officer present, was</p> <p>3 he in violation of the policy?</p> <p>4 A. Yes, he was.</p> <p>5 Q. And if Mr. Decatur was sitting in</p> <p>6 the floor with a taser probe still in him at</p> <p>7 the time Mr. Chapman struck him with a baton,</p> <p>8 was he in violation of the force continuum</p> <p>9 policy by using a baton at all?</p> <p>10 A. Yes.</p> <p>11 (Whereupon, Defendant's Exhibit</p> <p>12 Number 1 was marked for</p> <p>13 identification.)</p> <p>14 Q. (By Ms. Dowdy) Okay. And let me</p> <p>15 show you what I will mark as Defendant's</p> <p>16 Exhibit 1 to your deposition. Is this the</p> <p>17 other notice that was posted outside of M-dorm,</p> <p>18 Mr. McCluskey?</p> <p>19 A. It is, and it's also been given with</p> <p>20 the checks on occasion, as most of these memos</p> <p>21 have.</p> <p>22 Q. And does that indicate that they are</p> <p>23 violating jail policy if more than one jail</p>	<p style="text-align: right;">108</p> <p>1 RE-EXAMINATION BY MR. SAXON:</p> <p>2 Q. Under the court monitoring from the</p> <p>3 consent decree, did Judge Blackburn appoint any</p> <p>4 kind of special master?</p> <p>5 A. That was Dr. William Osterhoff that</p> <p>6 I had mentioned to you earlier. He was the</p> <p>7 court monitor. I can give you his phone</p> <p>8 number, if you'd like.</p> <p>9 MR. SAXON: I think that's all I've</p> <p>10 got.</p> <p>11</p> <p>12 FURTHER THE DEPONENT SAITH NOT</p> <p>13 (DEPOSITION CONCLUDED AT 6:25 P.M.)</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p>

<p>109</p> <p>1 C E R T I F I C A T E</p> <p>2</p> <p>3 STATE OF ALABAMA</p> <p>4 COUNTY OF JEFFERSON</p> <p>5 I hereby certify that the above and</p> <p>6 foregoing deposition was taken down by me in</p> <p>7 stenotype, and the questions and answers</p> <p>8 thereto were transcribed by means of</p> <p>9 computer-aided transcription, and that the</p> <p>10 foregoing represents a true and correct</p> <p>11 transcript of the testimony given by said</p> <p>12 witness upon said hearing.</p> <p>13 I further certify that I am neither of</p> <p>14 counsel, nor of kin to the parties in the action,</p> <p>15 nor am I in anywise interested in the result of</p> <p>16 said cause.</p> <p>17</p> <p>18 /s/ Scott Wilmeth</p> <p>19</p> <p>20 _____ 21 Scott Wilmeth, CCR, RPR 22 CCR #392, Expires 9/30/11 23 Commissioner for the State of Alabama at Large</p>	

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